CERTAIN DRIED SALTED CODFISH FROM CANADA

Determination of the Commission in Investigation No. 731-TA-199 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation

USITC PUBLICATION 1711

JULY 1985

United States International Trade Commission / Washington, DC 20436

UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMISSIONERS

Paula Stern, Chairwoman
Susan W. Liebeler, Vice Chairman
Alfred E. Eckes
Seeley G. Lodwick
David B. Rohr

Staff assigned:

David Coombs, Office of Investigations
Chandrakant Mehta, Office of Investigations
Howard Gooley, Office of Economics
C. B. Stahmer, Office of Industries
Judith Czako, Office of the General Counsel

Vera A. Libeau, Supervisory Investigator

Address all communications to
Kenneth R. Mason, Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

C O N T E N T S

CONTENTS

Figures

Tables

CONTENTS

Tables--Continued

CONTENTS

Tables--Continued

Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. These deletions are marked by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC

Investigation No. 731-TA-199 (Final)

CERTAIN DRIED SALTED CODFISH FROM CANADA

Determination

On the basis of the record 1/ developed in the subject investigation, the Commission 2/ determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)), that the establishment of an industry in the United States is materially retarded by reason of imports from Canada of certain dried heavy salted codfish, provided for in item 111.22 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 29, 1985, following a preliminary determination by the Department of Commerce that imports of certain dried heavy salted codfish from Canada were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. § 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of February 21, 1985 (50 FR 7236). The hearing was held in Washington, DC, on May 20, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

1/ The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).
2/ Vice Chairman Liebeler dissenting.

VIEWS OF CHAIRWOMAN PAULA STERN, COMMISSIONER ALFRED E. ECKES, COMMISSIONER SEELEY G. LODWICK, AND COMMISSIONER DAVID B. ROHR

On the basis of the record in investigation No. 731-TA-199 (Final), we determine that the establishment of an industry in the United States is materially retarded by reason of imports of dried heavy salted codfish from Canada, which the Department of Commerce (Commerce) has determined are sold at less than fair value (LTFV). The Commission's investigation reveals suppression and depression of domestic prices, as well as confirmed instances of lost sales and lost revenues due to imports from Canada. The petitioner was unable to market its product competitively and thereby stabilize its production and sales at a level which would allow it to become established.

Like product and the domestic industry 1/

Dried heavy salted codfish is a processed fish made from fresh cod, a groundfish caught on or near the sea bottom in cold or temperate waters, such as the North Atlantic and the northern Pacific Ocean. 2/ In our preliminary determination 3/ regarding this product, we concluded that the like product is dried heavy salted codfish, and the domestic industry consists of the operations of petitioner Codfish Corporation, the only known processor of dried heavy salted codfish in the United States. No party has raised any arguments in favor of a different determination, and the information in the record does not suggest a different conclusion. Therefore, we adopt the

---

1/ Vice Chairman Liebeler joins in this discussion of the like product and domestic industry.

2/ Report of the Commission (Report) at A-2-A-3.

3/ Certain Dried Salted Codfish from Canada, Inv. No. 731-TA-199 (Preliminary), USITC Pub. 1571 (1984) (hereinafter Preliminary Determination).

definitions of like product and domestic industry reached in our preliminary determination. 4/ 5/

Material retardation of the establishment of a domestic industry

Section 735 of the Tariff Act of 1930 requires that the Commission make a final determination of whether--

(A) an industry in the United States--
(i) is materially injured, or
(ii) is threatened with material injury, or
(B) the establishment of an industry in the United States is materially retarded,

by reason of LTFV imports. 6/

The petitioner in this investigation alleged that the establishment of a domestic industry is materially retarded by reason of LTFV imports of dried heavy salted codfish from Canada. Prior Commission determinations regarding the issue of material retardation establish that: (1) application of the material retardation standard is not limited to industries that have not yet begun production, but extends as well to new facilities that have initiated production but have not yet stabilized their operations; (2) because the attempt to establish a new industry is inherently unique, determination of whether the establishment of an industry is materially retarded is to be made on a case-by-case basis; and (3) in instances involving an industry that has

---

4/ Preliminary Determination at 3-5.

5/ Because of the manner in which petitioner maintains its records, some of the information concerning the domestic industry includes data relating to production of other dried salted fish such as pollock or hake. To the extent possible, we have considered only data related to petitioner's operations producing dried heavy salted codfish.

6/ 19 U.S.C. § 1673d.

not yet undertaken production, there must be a sufficient indication that the industry has made a "substantial commitment" to commence production. 7/

A significant question with regard to the issue of material retardation in this investigation is whether it is appropriate to view the case as one of material injury or the threat thereof, rather than material retardation. Petitioner commenced production in late 1982, and produced dried heavy salted codfish on a commercial basis through November 1984, when it shut down its operations. 8/ However, during the entire period of its operations, the petitioner was unable to stabilize production at a level which even approached a reasonable break-even point. We determine that the domestic industry in this investigation, which consists of petitioner's operations in Puerto Rico, was never "established," and that therefore material retardation is the applicable standard in this investigation.

In the preliminary investigation, the Commission phrased the question of material retardation as "whether the level of activities of Codfish Corporation reflect merely the normal start-up conditions of a company entering an admittedly difficult market or whether the performance is worse than what could reasonably be expected and thus be deemed materially retarded." 9/ We used this approach in analyzing the issue of material

---

7/ See, e.g., Thin Sheet Glass from Switzerland, Belgium, and the Federal Republic of Germany, Inv. Nos. 731-TA-127, 128, and 129 (Preliminary), USITC Pub. No. 1376 (1983); Certain Commuter Airplanes from France and Italy, Inv. Nos. 701-TA-174 and 175 (Preliminary), USITC Pub. No. 1296 (1982); Salmon Gill Fish Netting of Manmade Fibers from Japan, Inv. No. 751-TA-5, USITC Pub. No. 1234 (1982).

8/ Petitioner plans to reopen its plant in summer 1985, pending the conclusion of negotiations with the FDIC concerning loans from the now-bankrupt Girod Trust, and the receipt of additional capital financing from the Government Development Bank of Puerto Rico. See Report at A-5.

9/ Preliminary Determination at 6-7.

retardation in this final investigation. The difficulty is determining what level of performance "could reasonably be expected." The market and feasibility study prepared by petitioner and FOMENTO 10/ at the inception of its business operations provides us with a benchmark of expected performance against which to measure the actual performance of petitioner. 11/

There does not appear to be any serious dispute that Codfish Corporation has not operated successfully. 12/ Domestic shipments of dried heavy salted codfish during all periods of petitioner's operations were substantially below its projected break-even quantities. 13/ Even during its best period, January-November 1984, petitioner's capacity utilization rate fell well below its projected break-even level. 14/ Employment declined during petitioner's period of operations, and since November 30, 1984, all production and related workers have been on temporary layoff. 15/ Financial information obtained from Codfish Corporation indicates that it lost money during its entire period of operations. The company has a relatively large current debt, as well as

---

10/ Project Description for the Establishment of the Portuguese-Puerto Rican Codfish Corporation, reprinted at Report, Appendix C. FOMENTO is the Spanish acronym for the Government of Puerto Rico Economic Development Administration.

11/ We note that such feasibility studies are based on assumptions about the future and that it is not unexpected that petitioner's actual performance might be below that projected. A feasibility study such as that presented in this investigation must be analyzed in light of actual conditions in order to determine what performance could reasonably be expected.

12/ Due to the relatively short time Codfish Corporation has been in existence and the manner in which it maintains its data, we do not have the same data available concerning the condition of the domestic industry as in a more typical investigation.

13/ Report at A-12. Because there is only one company in the domestic industry, almost all information concerning its operations is business confidential and thus can be discussed only in general terms.

14/ Report at A-12. See Id. at A-23 for a discussion of petitioner's initial market study and projected sales and production volumes. Further break-even analyses of petitioner's operations appear at pages A-24-A-26 of the Report.

15/ Id. at A-13.

long-term debt related to investment in physical facilities. Petitioner has never achieved a level of operation which even approaches a break-even level. Thus, the information on the record indicates that Codfish Corporation's performance to date is substantially poorer than that which could reasonably have been expected.

A principal focus of the Canadian producers' and importers' argument has been that petitioner's operation in Puerto Rico is inherently unviable, and could never operate profitably, regardless of LTFV imports. 16/ They allege that the hot, humid climate of Puerto Rico makes it entirely unsuitable for a fish drying operation. 17/ Petitioner responds by arguing that its plant is a feasible operation, due to lower labor costs and certain marketing and distribution advantages, which outweigh its relatively high energy costs. Our examination of the information in the record indicates that the major component of petitioner's costs of production is raw material costs. 18/ The disadvantages of petitioner vis-a-vis Canadian producers' costs in certain areas are balanced against advantages enjoyed by petitioner in other areas.

The viability of the nascent domestic industry is a relevant consideration in deciding the issue of material retardation in this

---

16/ Commissioner Eckes focused on the viability of the domestic industry during the period of investigation in making his determination of material retardation. He does not believe the petitioner must prove future viability to obtain relief from unfair imports.

17/ Fish drying operations require the passage of constant streams of warm, dry air over the fish for a period of up to 5 days. Petitioner's entire factory is air conditioned, to provide an appropriate temperature to prevent spoilage of the fish during initial handling and processing. By contrast, the cooler, dryer climate of Canada means that air conditioning of plants is not required. In addition, the Canadian producers close their plants during the warmest months of July and August. It must be noted, however, that petitioner's plant is acknowledged to be a state-of-the-art fish drying plant.

18/ Report at A-15.

investigation. The elements of viability which are important in this investigation are the ability to produce a marketable product, which is qualitatively acceptable to purchasers, and which can be sold at a price which is competitive with fairly traded imports. 19/ On the basis of our analysis of the above-mentioned marketing and feasibility study, the initial business plan of the petitioner appears reasonably calculated and could have succeeded.

The Canadian producers and importers argue that, given its current status and the current market for dried heavy salted codfish, petitioner will never be able to reopen its plant and operate it as a successful business. 20/ The future viability of petitioner's business operations is a relevant issue in determining whether the establishment of a domestic industry is being materially retarded. 21/ Codfish Corporation has provided us with information concerning its plans to reopen its plant in Puerto Rico. Petitioner has received approval of a $2 million line of credit from the Government Development Bank, to provide necessary additional capital. 22/ Codfish Corporation has also recently signed an agreement with Packers Provision, the largest meat distributor in Puerto Rico, pursuant to which Packers Provision will handle marketing and distribution of petitioner's product through its existing channels, as well as develop new markets for the product. 23/ In

---

19/ See Salmon Gill Fish Netting of Manmade Fibers from Japan, Inv. No. 751-TA-5, USITC Pub. 1234 (1982).

20/ Commissioner Lodwick focused his attention in this investigation primarily on the viability of the domestic industry at its inception in making his determination. However, he also believes that the following discussion of Codfish Corporation's future viability is relevant, as it strengthens his conclusions concerning the viability of the domestic industry.

21/ See note 16, supra.

22/ Report at A-5.

23/ Id. at A-7; Transcript of Hearing (Tr.) at 38-41, 61.

addition, petitioner has made arrangements to procure raw material (wet salted codfish) from Alaska and New England at competitive world market prices. 24/

Based on this information concerning petitioner's plans, the Commission has prepared a break-even analysis of petitioner's operations, using information collected from independent sources where possible as well as information provided by petitioner. We are persuaded that petitioner could be able to recommence operations, given fairly traded competition from imports, and stabilize its production and sales at a level which will allow it to become established. 25/

Causation

Petitioner's argument regarding causation in this investigation rests primarily on its contention that the price of Canadian imports has been continually lowered in an effort to prevent its entrance into the market. 26/ Thus, pricing data are critical in our determination.

A new entrant into the market must consider what sales volume, at a certain price, is necessary for the business venture to succeed. Petitioner's

---

24/ Report at A-26-A-27.

25/ We do not believe a negative determination is warranted simply because the imposition of antidumping duties may not be a complete solution to petitioner's difficulties. The antidumping law is not intended to be punitive; neither is it intended to protect domestic industries from fair competitive forces. It is intended to allow domestic industries the opportunity to compete free from injury caused by unfairly traded imports.

26/ We note that some attention has been given by all the parties to the question of whether Canadian producers commenced dumping in order to prevent petitioner from establishing the domestic industry. Predatory dumping is not at issue in this investigation, because the Canadian producers' intent is irrelevant to the Commission's determination. Commerce has determined that imports of dried heavy salted codfish from Canada have been sold at LTFV in the United States. The Commission must therefore determine whether the establishment of the domestic industry is materially retarded by reason of those LTFV imports, regardless of whether they were intended to have that effect.

initial business plans called for prices to be established somewhat below the then-current prices for imports of dried heavy salted codfish from Canada. As a new entrant to the market, particularly when, as is the case here, the product is sold largely on the basis of price, it would be reasonable for petitioner, whose product was as yet unproven, to seek to undersell the dominant Canadian imports in order to capture a share of the market.

The pricing data gathered in this investigation indicate that, at the wholesale level, 27/ prices of both imports and the domestic product declined throughout the period under investigation until the fourth quarter of 1984. 28/ Moreover, imports of Canadian dried heavy salted codfish in the most popular product categories, semi-dry cure heavy salted codfish from Newfoundland and ordinary cure heavy salted codfish from Nova Scotia and other non-Newfoundland sources, undersold the domestic product during most of the quarters for which comparisons are possible until the fourth quarter of 1984. 29/ Thus, margins of underselling at the wholesale level characterize prices of the bulk of imports of dried heavy salted codfish from Canada. 30/

27/ The wholesale level is the most relevant for purposes of comparisons of import and domestic prices in the U.S. market for dried heavy salted codfish. Sales to a relatively small number of large wholesale distributors in Puerto Rico are the first and most critical level of competition between Canadian imports of dried heavy salted codfish and the domestic product. Prices to these wholesalers determine not only profit (or loss) to the importer and the domestic producer, but also set the competitive price advantage or disadvantage of these wholesalers in resales to sub-wholesalers, supermarkets and cash-and-carry chains, and independent retail grocers. Absent an integrated island-wide distribution capability in-house, the domestic producer, of necessity, competed with imports from Canada for sales to these large wholesale distributors.

28/ Report at A-30-A-34.

29/ Id. Semi-dry cure accounts for the majority of the dried heavy salted codfish imported from Newfoundland; virtually all imports from Nova Scotia are of ordinary cure.

30/ Report at A-30-A-34.

Canadian imports accounted for the vast majority of domestic consumption during the entire period under investigation. 31/ These imports came from a number of Canadian producers, and were imported into the United States by several Puerto Rican importers, as well as through brokers in the United States and Canada. 32/ The result of this pervasive pattern of underselling by these dominant imports was suppression and depression of domestic prices. The result of declining prices in the U.S. market was the inability of petitioner to market its product competitively at the wholesale level at a price which would allow it to recoup its costs and make a profit. 33/

In addition, we note that the price of imports from Canada increased at the wholesale level across the board during the fourth quarter of 1984. 34/ This increase occurred even before the imposition of a bonding requirement following the preliminary affirmative determination of Commerce. At that time, the market presence of Codfish Corporation was minimal, as it had sold off most of its remaining product preparatory to shutting down its operation in November 1984.

31/ Because imports of dried heavy salted codfish enter the United States in a "basket" tariff category, including different types of both wet and dried heavy salted fish, the Commission has calculated import figures for dried heavy salted codfish based on the questionnaire responses of importers estimated to have accounted for over 90 percent of all U.S. imports from Canada in 1984. Report at A-29. Apparent consumption was estimated to be the sum of Canadian exports to the United States and Codfish Corporation's domestic shipments, since imports from third countries were apparently minimal until late 1984. Id. at A-28-A-29.

32/ Id. at A-6-A-8.

33/ Moreover, when the domestic producer, unable to market its product competitively at the wholesale level, attempted to sell to the sub-wholesale/retail market, offering the same prices, it was undersold at the low end of the import price range by semi-dry Canadian dried heavy salted codfish. Report at A-34-A-36.

34/ Id. at A-30-A-34.

We note, moreover, that first quarter 1985 sales, at higher prices, appear to have remained at levels comparable to those achieved in previous years, suggesting that the higher prices did not significantly affect sales. 35/ This suggests a certain degree of inelasticity of demand, which contradicts the Canadian producers' and importers' argument that prices declined due to decreasing demand in the Puerto Rican market during this time period. Had the LTFV imports from Canada not drawn the U.S. market price of dried heavy salted codfish downward during the period under investigation, petitioner would have been able to market its product at prices which would have allowed it to establish itself in the marketplace. Furthermore, the information in the record concerning petitioner's plans for sourcing wet salted codfish indicates that Codfish Corporation should now be able to price its product at levels which would allow it to establish itself in the marketplace.

In addition to our analysis of the pricing data in this investigation, we note that the Commission was able to confirm virtually all allegations of lost sales and lost revenues by Codfish Corporation to imports from Canada. 36/ 37/ In most of these cases, the purchasers indicated that the quality of petitioner's product was adequate, and that they would be willing to buy petitioner's product, provided the price was competitive. 38/

Two importers of Canadian dried heavy salted codfish argued in their briefs and at the hearing that the Commission should reach a negative

---

35/ See Prehearing Brief of Codfish Corporation at Attachment E.
36/ Report at A-41-A-44.
37/ Chairwoman Stern notes that these lost sales and lost revenue allegations represented only a small percentage of domestic shipments and net sales for the period January 1, 1983 through November 1984.
38/ Report at A-41-A-44.

determination because dumping by the Canadians is the result of market forces (i.e., a declining world market price for dried heavy salted codfish, and declining demand in the Puerto Rican market) and not a response to petitioner's attempt to commence production. In addition, the Canadian producers and importers argued that international market conditions determine the price of dried heavy salted codfish in the U.S. market, and that if antidumping duties were imposed, the Canadian imports in the U.S. market would simply be replaced by low-priced imports from Norway, Iceland, or some other third country source. 38/

These arguments are not supported by information on the record. Such replacement would require that these countries divert exports from current markets to the U.S. market. Information in the record suggests that there is a limited amount of dried heavy salted codfish available from third country sources which can be directed to the U.S. market. 39/

38/ We note that, according to information submitted by the Canadian producers, during 1983 and 1984, Canadian export prices to the United States were higher than to the rest of the world. However, there does not appear to have been a significant increase in third country imports into the U.S. market until the most recent period. See Report at A-28.

39/ Currently, the cod catch is reportedly down 30 percent from prior years, and this decline has been predicted to continue. Telephone notes of Staff Economist. Moreover, the proportion of the catch being processed into dried heavy salted codfish also appears to be declining. Tr. at 135-36. Information on the record indicates that if the short catch of cod continues, Norway, the largest producer of dried heavy salted codfish in the world, will not be able to supply the Puerto Rican market appreciably. Norway has a more profitable alternative market for fresh cod in the European Community, in addition to its longstanding barter arrangement with Brazil, the world's largest consumer of dried heavy salted codfish, to exchange dried heavy salted fish for coffee. Report at A-15; Telephone notes of Staff Economist; Letter from O. Bjorge, Norwegian fish producer/exporter, Exhibit 1 to Hearing Testimony of Paolo da Cunha.

Moreover, the fact that Canadian imports might be forced out of the market and be replaced by low-priced third country imports should an antidumping duty order be imposed is irrelevant to the determination the Commission must make, that is, whether LTFV Canadian imports materially retard the establishment of the domestic industry. A mere possibility that the domestic industry may not be able to compete with third country imports at some unknown time in the future, whether the imports are fairly or unfairly traded, does not affect our consideration of the effect of imports from Canada which are being sold at LTFV.

Thus, we conclude that the establishment of an industry in the United States is materially retarded by imports of dried heavy salted codfish from Canada which are sold at LTFV.

VIEWS OF VICE CHAIRMAN LIEBELER

The question before the Commission in Inv. 731-TA-199 is one of material retardation. The petitioner has not succeeded in establishing a domestic dried heavy salted codfish industry. Has the establishment of a domestic industry been materially retarded by reason of imports of Canadian dried salted codfish which have been sold at less than fair value?

If the petitioner would not have been able to establish a viable industry even had the sales of Canadian dried heavy salted codfish not occurred at less than fair value, then the establishment of such an industry has not been materially retarded by the less than fair value sales. The critical question, therefore, is, would there now be a viable domestic industry, but for these sales at a weighted average 16.3% below fair value?

I am convinced that the failure to establish a domestic industry cannot be laid at the door of these LTFV sales. The drying and curing necessary to produce this product requires hot-dry air, with the emphasis on the dry. The world's leading producer of this product is Norway, followed by Canada. In addition, Portugal, Iceland and the United Kingdom are also producers. Consumers, on the other hand, are located in Latin America (especially in Brazil), Portugal, Italy, Greece, and Spain. It is not mere chance that has caused a product that is consumed in tropical regions to be produced at northern

latitudes. It is in the nature of the technology and costs of the industry.

Because the drying process requires removing moisture from the fish, the lower the moisture content of the ambiant surroundings, the cheaper and easier the process. Warm air of a given humidity will contain more moisture than cold air. Therefore, it is easier to extract moisture from fish in a colder region. The Canadians and Norwegians have a cost advantage, in spite of their higher labor costs, in drying and curing the fish because they need not spend as much on energy in order to carry out the process.

In addition to the lower energy costs, there are two other important reasons why the drying is done in Norway and Canada. The fish are caught at northern latitudes. The drying and curing process both eliminates weight and prevents spoilage. The closer the drying is done to the place the fish are caught, the less chance of spoilage and the lower the shipping cost.

These arguments are persuasive, and are made compelling by the fact that although the Puerto Rican market is a small segment of the world market, none of the low-wage South American countries have a significant dried salted codfish industry. It is inconceivable that if this industry were viable in Puerto Rico it would not be even more profitable in Brazil. The failure of the market to induce other firms to enter in countries with larger markets, lower wages and similar

climates convinces me that this is not a viable United States industry, capable of competing against fairly traded imports.

Nor is it likely to become competitive due to a rise in demand. The market for this product is limited to Puerto Rico and other ethnic markets in several major cities on the mainland. This is an ethnic food, consumed primarily as a low cost source of protein. As incomes rise, purchases of this product fall. The petitioner has entered a declining industry at an uneconomic location.

In conclusion, therefore, I determine that the domestic dried salted codfish industry has not been materially retarded by less than fair value sales of Canadian dried salted codfish.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On July 19, 1984, the U.S. International Trade Commission and the U.S. Department of Commerce received a petition from Codfish Corp., a U.S. producer of dried heavy salted fish, alleging that imports of certain dried heavy salted codfish from Canada, provided for in item 111.22 of the Tariff Schedules of the United States (TSUS), are being sold in the United States at less than fair value (LTFV). The Commission therefore instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 USC 1673b(a)) to determine whether there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of such imports. On August 27, 1984, the Commission 1/ determined that there was a reasonable indication that the establishment of an industry in the United States was materially retarded by reason of the alleged LTFV imports from Canada (49 FR 35870, Sept. 4, 1984). 2/

On January 29, 1985, Commerce made a preliminary determination that imports of certain dried heavy salted codfish from Canada are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Tariff Act of 1930 (50 FR 3946). Accordingly, effective January 29, 1985, the Commission instituted investigation No. 731-TA-199 (Final), pursuant to section 735(b) of the Tariff Act of 1930 (19 USC 1673d(b)), to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise (50 FR 7236, Feb. 21, 1985).

In response to a request by counsel for respondents, as provided in section 735(a)(2)(A) of the Tariff Act of 1930, Commerce postponed its final antidumping determination until not later than May 14, 1985 (50 FR 9306, Mar. 7, 1985). On May 14, 1985 (50 FR 20819, May 20, 1985), Commerce made its final determination that certain dried heavy salted codfish from Canada are being sold in the United States at LTFV. Therefore, as directed by statute, the Commission must render its final determination in this investigation before the 45th day after the day on which it received notification from Commerce of its final determination, or by July 3, 1985. 3/

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal

---

1/ Vice Chairman Liebeler dissenting.

2/ Certain Dried Salted Codfish from Canada: Determination of the Commission in Investigation No. 731-TA-199 (Preliminary) . . ., USITC Publication 1571, September 1984.

3/ The Commission's administrative deadline for the notification of Commerce is June 27, 1985.

Register on February 21, 1985 (50 FR 7236). 1/ The public hearing was held in Washington, DC, on May 20, 1985. 2/ The briefing and vote in this investigation was held on June 12, 1985.

Nature and Extent of Sales at LTFV

Commerce's final determination of sales at LTFV covered seven producers and exporters to the United States of dried heavy salted codfish. These firms accounted for over 60 percent of all dried heavy salted codfish shipped from Canada to the United States during the period February 1, 1984, to July 31, 1984. Margins ranging from 0.03 percent to 79 percent were found on approximately 60 percent of the sales Commerce compared. 3/ The overall weighted-average margin on all sales compared was 16.3 percent. Commerce found that virtually all sales of one firm, Canadian Saltfish Corp., were at prices below the cost of production. Accordingly, Commerce compared the United States price to constructed value to determine dumping margins for this firm. In all other instances, Commerce compared the United States price to foreign-market value based on sales to third country markets, with proper adjustments. Weighted-average dumping margins, by firm, are shown below:

Producer/exporter	Weighted-average margin (percent)
Canadian Saltfish Corp.	20.75
Granville Gates 1/	0.02 2/
National Sea Products	1.27
R.I. Smith Co.	1.49
Sable Fish Packers, Ltd.	10.95
Sans Souci	3.40
United Maritime Fishermen	20.75
All other manufacturers/producers/and exporters	16.30

1/ Company excluded from this determination.
2/ De minimis.

Details of Commerce's analysis are provided in its determination, which is presented in appendix A.

1/ A copy of the Commission's notice of institution is presented in app. A. A copy of Commerce's final determination of sales at LTFV, as well as its notice of postponement, are also presented in app. A.
2/ A list of witnesses appearing at the hearing is presented in app. B.
3/ Commerce calculates dumping margins by subtracting the U.S. price from the foreign market value and then dividing the remainder by the U.S. price.

The Product

Description and uses

Dried salted codfish is an edible groundfish 1/ product produced by dehydrating wet salted codfish. This product, which is regarded as a low-cost source of protein, is in greatest demand in tropical areas where refrigeration is not commonly available. Dried salted codfish is also popular as a traditional food in regions of historical consumption, such as Portugal, Italy, Greece, Spain, and Latin America.

The raw material used to produce dried salted codfish is wet salted codfish, also known as saltbulk or green fish. 2/ Wet salted codfish, which is considered inedible by most people, is prepared by removing the head and viscera from the fresh fish and then salting the carcass. The salt penetrates and preserves (cures or strikes) the protein in the fish. There are three types of cures: heavy, medium, and light. The imported products covered by this investigation are produced from wet heavy salted codfish only. 3/

Wet heavy salted codfish is produced by alternately layering split codfish and thick coverings of salt. In this process, about 35 to 40 pounds of salt are used per 100 pounds of split fish. Depending upon the temperature and the thickness of the fish, the salt completely penetrates the flesh in about 21 days, either killing or arresting the growth of almost all the bacteria in the fish. The moisture content of the struck fish is about 55 percent as compared to a moisture content of 80 percent in fresh fish, and the salt content of the struck fish is about 20 percent by weight. The resulting wet heavy salted codfish is relatively stable and will resist decomposition for months if properly refrigerated.

Unlike wet heavy salted codfish, in which most bacterial growth is arrested, wet medium and wet light salted codfish contain varying amounts of active bacteria and thus are much more unstable. Wet medium salted codfish is cured by applying about 14 to 16 pounds of salt per 100 pounds of split fish, while the light cure utilizes approximately 8 to 10 pounds of salt per 100 pounds of split fish. The former product, if properly refrigerated, will keep up to 1 month before deterioration takes place, whereas the latter must be dried within 3 to 8 days to avoid decomposition. The unstable nature of these two cures requires that the wet salted fish be dried soon after production, and thus the shipment radii of these products are limited.

1/ The term "groundfish" encompasses many types of fish that are generally found and caught on or near the sea bottom in cold or temperate waters. Common groundfish include cod, haddock, hake, pollock, cusk, and flounder.

2/ Industry and National Marine Fisheries Service sources indicate that only about 1 percent of all freshly caught codfish in the United States is used to produce wet salted codfish. However, almost all wet salted codfish is used to produce dried salted codfish.

3/ Wet heavy salted codfish is the most commonly produced type of wet salted codfish.

Wet salted codfish may be dried to a wide range of moisture levels. Canadian export regulations, which conform to international standards, specify six types of dried heavy salted codfish:

Heavy salted type	Moisture content (by weight)
Extra hard dried	not over 32 percent
Hard dried	over 32 percent but not over 38 percent
Dry	over 38 percent but not over 40 percent
Semi-dry (7/8)	over 40 percent but not over 44 percent
Ordinary (3/4)	over 44 percent but not over 50 percent
Soft dried	over 50 percent but not over 54 percent

Those types of dried heavy salted codfish with moisture contents of under 40 percent (dry, hard dried, and extra hard dried) may last in acceptable condition for at least 6 to 8 months without refrigeration, while those with moisture contents of over 40 percent will deteriorate without refrigeration. 1/

In the drying process, wet salted codfish are placed on racks in dryers, and water is evaporated from the flesh by the use of forced hot and cold air. The reduction in weight from wet salt to ordinary cure is 18 to 20 percent, while 25 to 28 percent of the weight is lost during the conversion from wet salt to semi-dry cure. After the desired moisture content has been achieved, the fish are removed from the dryers and either placed whole in 50-pound boxes or folded into sections and placed in smaller heat-sealed polybags. The polybags are generally sold to retail stores in 20-pound cartons.

Dried heavy salted codfish are marketed in four different sizes and in four different qualities or grades. The sizes in terms of length are small (12 inches to 16 inches), medium (16 inches to 21 inches), large (21 inches to 25 inches), and extra large (25 inches and over). Grades range from the highest quality "select" through "choice" and "standard" (also known as "special"), to the lowest quality "commercial," which is virtually inedible.

U.S. tariff treatment

U.S. imports of dried salted codfish are classified in TSUS item 111.22, which covers both wet salted and dried salted cod, cusk, haddock, hake, and pollock. These products may be either whole or processed by removal of heads,

1/ The length of time before the product decomposes depends upon the heat and humidity in the storage area and is inversely related to the moisture content of the dried fish.

fins, viscera, scales, vertebral columns, or any combination thereof, but are not otherwise processed. Imports from Canada and all other countries receiving the column 1 rate of duty 1/ are free of duty. This duty rate has been in effect since January 1, 1970. Imports from Communist countries and areas enumerated in TSUS general headnote 3(f) are dutiable at 1.25 cents per pound.

U.S. Market and Channels of Distribution

Apparent U.S. consumption

U.S. demand for dried heavy salted codfish is concentrated in Puerto Rico where the product, known locally as bacalao, has been consumed for 200 years. Small quantities of the product are also consumed in major cities in the continental United States by ethnic groups of immigrants from areas of historical consumption such as Portugal, Italy, Greece, Spain, and Latin America.

No official data are available on U.S. consumption of dried heavy salted codfish. However, responses to the Commission's questionnaires indicate that Puerto Rico accounts for about 90 percent of total U.S. consumption of this product. The annual demand in Puerto Rico for all types of dried salted fish has been estimated by the Chamber of Commerce of Puerto Rico to have declined irregularly from approximately 23 million pounds in 1980 to 21 million pounds in 1983. In 1983 about 80 percent of this amount, or 17 million pounds, is estimated to have been codfish, the majority of which was the type covered by this investigation.

U.S. producers

The only significant producer of dried heavy salted codfish in the United States is Codfish Corp. This firm, located in Ponce, PR, began production in late 1982 and suspended operations in November 1984. The plant's employees are currently on temporary layoff. However, subject to the renegotiation of loans currently held by the Federal Deposit Insurance Corporation (FDIC) 2/ and the release of the funding to be provided by the Government Development Bank of Puerto Rico (GDB), 3/ the firm will reopen in summer 1985.

1/ The rates of duty in col. 1 are most-favored-nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. Currently, the People's Republic of China, Hungary, Romania, and Yugoslavia are afforded MFN status.

2/ Codfish Corp. borrowed $1.25 million from the Girod Trust Co. of Puerto Rico to pay for its plant and equipment. When the Girod Trust Co. went bankrupt all notes held by the bank were taken over by the FDIC. Notes that were deemed "good" have been sold to other financial institutions. However, the Codfish Corp. loans, along with about * * * others upon which repayment is questionable, are still held by FDIC.

3/ Codfish Corp. has received approval from GDB for a $2 million loan. The terms of this loan are discussed in the "Bank loans" section of this report.

In addition to the petitioner, only two other firms are known to have produced dried heavy salted codfish in the United States. These firms are Sea Klip Fish Co., Ltd., Seattle, WA, and Royal Seafood, Inc., New Bedford, MA. The Commission sent questionnaires to both of these firms at their last reported addresses but did not receive responses, and attempts to reach them by telephone failed.

According to a former customer, Sea Klip ceased operations because of unfavorable economic conditions. The firm attempted to enter the Puerto Rican market but did not succeed because of transportation costs and the fact that its large size fish product was not price competitive with the smaller fish sold in Puerto Rico. 1/

Royal Seafood, Inc., was reportedly a very small producer of dried salted codfish which served the Portuguese market in New Bedford, MA. This firm is believed to have gone out of business in June 1984. 2/

U.S. importers

In 1984, at least 40 firms imported products classified under the broad provisions of TSUS item 111.22, which cover five different fish species. The importers are located primarily along the U.S. Atlantic seaboard and in Puerto Rico. The importers located in the continental United States are usually large-volume fish brokers that also handle various other types of fish products. The importers located in Puerto Rico range from some independent grocery stores to large food distributors.

Channels of distribution

Canadian dried heavy salted codfish is generally marketed by exporters who buy the product from numerous small drying plants. Canadian Saltfish Corp. (CSC), a Crown company, is the sole exporter of dried salted codfish produced in Newfoundland. 3/ In 1984, some 20 firms, of which 5 or 6 could be considered major, exported Nova Scotian dried heavy salted codfish. 4/ The United Maritime Fishermen, a cooperative, markets the small quantity of this product produced in New Brunswick.

Exporters of Canadian dried heavy salted codfish, whether producers or traders, sell the product in container quantity 5/ to Puerto Rican wholesalers and to a few U.S. importers who reexport most of this product to Puerto Rico. Some of the Puerto Rican importers distribute only fish, others are commodity

---

1/ Conversation between C.B. Stahmer, Commission's staff, and * * *.

2/ Conversation between C.B. Stahmer, Commission's staff, and occupant at Royal Seafood's former location.

3/ CSC is also the exporter for part of Quebec's production, including the so-called "Gaspe cure" dried light salted codfish.

4/ Some of these firms are producers, while others are only exporters that serve the 80 to 100 small drying plants in Nova Scotia.

5/ A 20-ton container holds 800 50-pound boxes or 2,000 20-pound cartons.

wholesalers, and still others are full-line wholesale food distributors. 1/ Brokers in Puerto Rico, New York, and Canada enable wholesalers to import directly from drying plants in Nova Scotia and from other non-Newfoundland Canadian producers. These brokers work on a smaller margin (3 percent) than do Canadian or U.S. exporters who take title to the dried product. 2/ Several large Puerto Rican supermarkets have recently bypassed the distributors, importing directly through brokers or from Canadian producers. Figure 1 is a diagram of the channels of distribution for Canadian and domestic dried heavy salted codfish.

Most of the dried heavy salted codfish imported into Puerto Rico goes to five or six large distributors. In rank order they are: * * *. * * *, a full line food products wholesaler, buys * * *. 3/ * * * also supplies four other wholesalers--* * *. * * * imports from many different vendors located in Nova Scotia, as well as from U.S. exporters of Canadian dried heavy salted codfish such as Maritime Fish Products and Canadian Fish Exporters. * * * ranks * * * as its biggest competitor in the market, followed by * * *.

* * *, * * *, and * * * serve both independent grocers and the supermarket dimension of the retail market; * * * does not serve the supermarkets. * * *. 4/ According to * * *, * * * percent of the dried heavy salted codfish sold in Puerto Rico is sold at the retail level by these small grocers, while * * * percent is sold in cities by the large supermarkets. Packers Provision, which will distribute the product for Codfish Corp., * * *. Packers * * *.

The two U.S.-based exporters of Canadian dried heavy salted codfish, Canadian Fish Exporters and Maritime Fish Products, do not warehouse in Puerto Rico, but instead sell c.i.f. landed, duty paid, dock, San Juan. These two firms sell largely to the aforementioned Puerto Rican wholesalers but also to a class of customers called "cash and carry" outlets. These are large food merchants that are neither wholesalers nor retailers in the traditional sense, but achieve volumes of * * * to * * * million per year selling "cash and carry" in case lots to bodegas and almacens 5/ and to walk-in retail trade. Such accounts and wholesalers buy in container (trailer load) or split container quantity. In the past, the pattern of sales to wholesalers was a full container; however, competition has altered the quantity to a split container. The current norm is for two to four customers to split the contents of a trailer. * * * of * * *'s container shipments are to single accounts. 6/

U.S.-produced dried heavy salted codfish and imports from Canada (as well as from Norway) compete directly in sales to wholesalers and sales to super-

---

1/ The largest importers/wholesalers of this product in Puerto Rico are * * *.

2/ * * *.

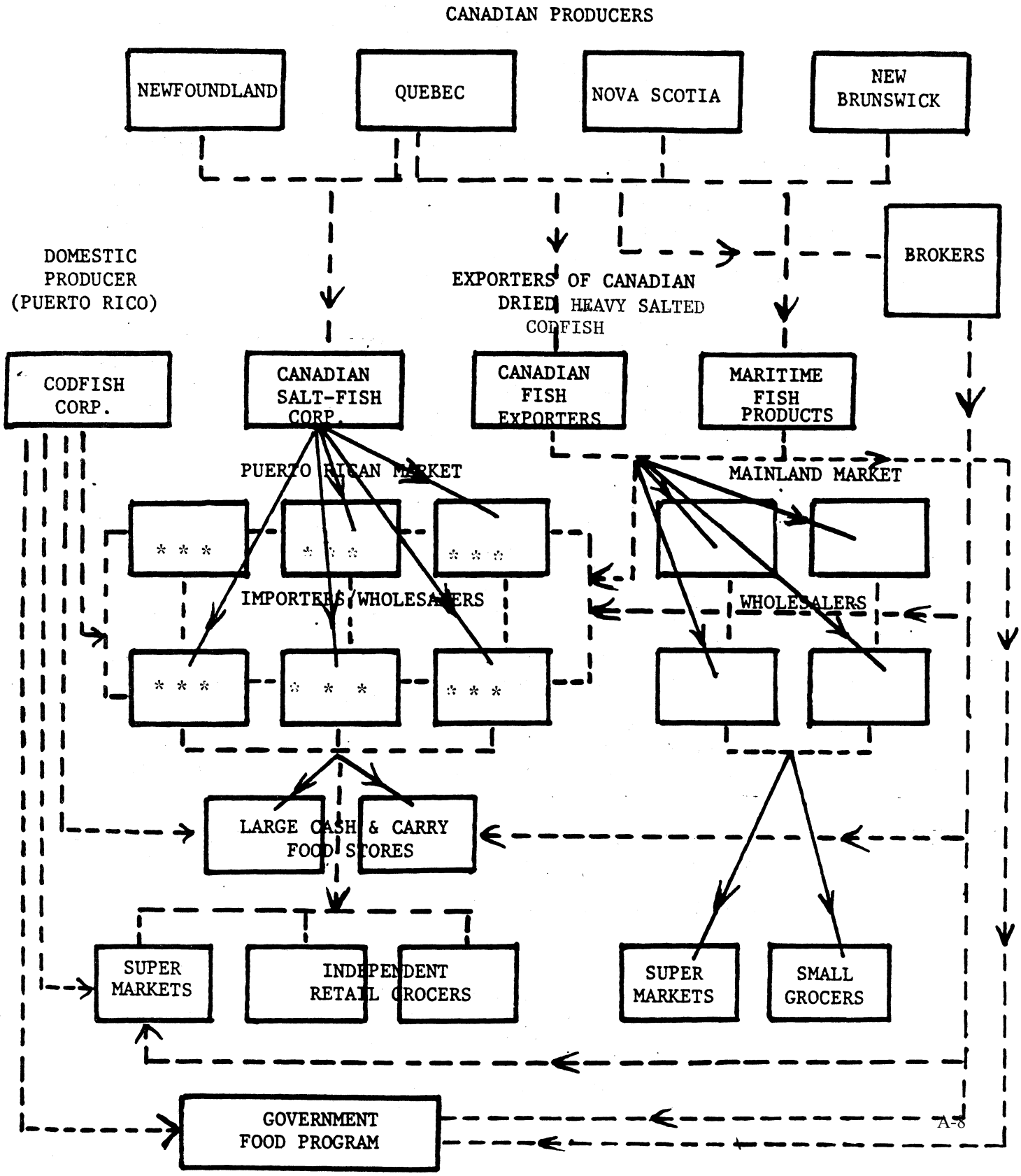
3/ * * *.

4/ Invoice terms are net 30 days, but are seldom--if ever--met. Payment turnover on these open accounts averages * * * days. The cost to the distributor, according to * * *, is about * * * percent per month. These customers are, to some extent, captive accounts. All distributors, however, have salesmen covering the island; all are selling on credit.

5/ A bodega is a tavern; an almacen is a neighborhood grocery store.

6/ * * *.

Figure 1.--Channels of distribution: Canadian and U.S.-produced dried heavy salted codfish



Source: Compiled from information gathered during interviews and field work.

markets and to the large "cash and carry retailers." At the wholesalers' purchase level, domestic dried heavy salted codfish produced by Codfish Corp. competes against both the Canadian product exported by CSC and reexported Canadian dried heavy salted codfish shipped from the mainland U.S. warehouses of Canadian Fish Exporters and Maritime Fish Products. Codfish Corp. also faces competition for the wholesaler market from brokers acting as agents for Nova Scotian and other Canadian producers. Some wholesalers deal directly with the Canadian producers located in provinces other than Newfoundland. 1/

Codfish Corp. wholesaled all its dried heavy salted codfish in 1983. The company policy was not to sell directly to retailers. Largely unsuccessful in selling to the major wholesalers, Paulo DaCunha, the firm's president, arranged an * * * wholesale distribution agreement with * * * of Puerto Rico in February 1983. DaCunha also * * *.

According to DaCunha, by yearend 1983 * * *. At this point in time, says DaCunha, Codfish Corp. was confronted by * * *. In March 1984, DaCunha hired a salesman and instituted a new policy of "sell to anyone." DaCunha states that even then, apart from the larger supermarket accounts, only * * * or * * * of the firm's * * * to * * * accounts were retailers. The remainder, though small accounts, were wholesalers. As 1984 progressed, Codfish Corp. was quoting "close-out prices"--to move the inventory and cut overhead and close the plant.

Foreign Producers

Canada

There are approximately 167 producers of dried salted codfish in Canada, with processing facilities located principally in Newfoundland, Nova Scotia, and New Brunswick. 2/ Canadian production of dried salted codfish from 1981 to 1984 accounted for between one-fifth and one-third of declining world production (by weight). Canadian Saltfish Corp., in St. Johns, Newfoundland, is believed to account for about a third of Canadian exports of dried heavy salted codfish to the United States, while the remaining producers individually account for relatively small amounts.

United States and Canadian processing techniques for producing dried heavy salted codfish are believed to be generally comparable. The Canadian Government has set uniform quality standards for exports of dried heavy salted codfish.

Data on Canadian exports of dried heavy salted codfish are shown in table 1. Canadian exports to the United States accounted for about 46 percent of total Canadian exports of this product in 1984.

1/ * * * in Nova Scotia employs no sales personnel but instead quotes prices by telephone and telex. In contrast, all sales in Puerto Rico by * * *, one of the larger Canadian producers, are negotiated by * * *, the broker, to its importer/wholesaler customers. Neither of these firms sell to retailers.

2/ Transcript of the hearing, p. 85.

Table 1.--Dried heavy salted codfish: Canadian exports to the United States and other countries, by moisture content, 1981-84

(In thousands of pounds)

Item	1981	1982	1983	1984
United States:				
46-50 percent moisture content	9,208	6,748	6,039	8,787
44-45 percent moisture content	3,848	4,061	3,663	3,870
43 percent or less moisture content	4,773	4,002	2,278	2,259
Total to the United States	17,830	14,811	11,980	14,916
Other countries	19,453	15,770	15,582	17,477
Total exports	37,283	30,581	27,562	32,393

Source: Statistics Canada.

Note.--Because of rounding, figures may not add to the totals shown.

Other countries

Norway is the world's largest producer of dried salted codfish, followed by Canada. Norway accounted for almost two-thirds to as much as four-fifths of world production between 1981 and 1984. The principal markets for Norway are Brazil, 1/ Nigeria, and Portugal. Other producers include Portugal, Iceland, and the United Kingdom.

The Question of Material Injury

Because of the relatively short period of time Codfish Corp. has been in existence and the manner in which it maintains its data, much of the information usually presented in this section of the report is limited or non-existent. For example, the firm produced dried heavy salted codfish for only a short time, from December 1982 through November 1984. Additionally, the firm does not maintain data on its production or inventories of dried heavy salted codfish. Finally, the firm does not keep profit-and-loss data by product line, and the reliability of overall profit-and-loss data is questionable.

U.S. production

Codfish Corp. does not maintain records on its production of dried heavy salted codfish. The firm produces three species of dried heavy salted fish

1/ Norway and Brazil have a barter agreement to exchange dried salted fish for coffee. Transcript, pp. 69-70.

(cod, hake, and pollock) in response to market orders, and its inventory levels of dried fish are very low. The firm believes that recently dried fish contains more protein than dried fish that has been stored for a longer period, and that it thus provides the customer with more nutrition. 1/ According to Codfish Corp., the period of time between the removal of wet salted fish from inventory and shipment of the finished product to the customer is approximately * * * days.

Capacity and capacity utilization

The equipment, plant, and workers used by Codfish Corp. to produce dried heavy salted codfish are also used to produce other types of dried heavy salted fish, such as pollock and hake. Thus, capacity and capacity utilization are extremely difficult to allocate to dried heavy salted codfish only and are more accurately calculated on an establishment basis.

Codfish Corp. has the practical capacity to produce * * * million pounds of dried heavy salted fish per year, if the firm's facilities operate 160 hours per week, 51 weeks per year. As shown in table 2, the firm produced an estimated * * * million pounds of dried heavy salted fish in 1983 and an estimated * * * million pounds of dried heavy salted fish in January-November 1984. 2/ Capacity utilization was * * * percent in 1983. It then rose to * * * percent during January-November 1984.

Table 2.--Dried heavy salted fish: Estimated production, capacity, and capacity utilization by Codfish Corp., 1983 and January-November 1984

Item	1983	Jan.-Nov.--1984
Estimated production, all dried salted fish 1/----------1,000 pounds--	***	***
Capacity----------do----	***	***
Capacity utilization----------percent--	***	***

1/ Shipment data are used as a surrogate for production data, which are not maintained by the company.

Source: Compiled from data received in response to questionnaires of the U.S. International Trade Commission.

1/ The respondents in this investigation dispute this belief and respond that after fish is wet salted, further processing does not significantly affect the protein content. Prehearing brief of Canadian Saltfish Corporation, . . ., p. 24.

2/ Approximately * * * percent and * * * percent of Codfish Corp.'s total production was dried heavy salted codfish in 1983 and 1984, respectively.

Domestic shipments

Codfish Corp. began domestic shipments of dried heavy salted codfish in December 1982 and continued through November 1984. During 1983, domestic shipments totaled * * * pounds, valued at * * *; these shipments declined to * * * pounds, valued at * * *, in 1984 (table 3). Average monthly shipments in 1983 were * * * pounds, while those in January-November 1984 were * * * pounds. All domestic shipments by Codfish Corp. were to locations in Puerto Rico. The firm has never sold its product in the continental United States. 1/

Table 3.--Dried heavy salted codfish: Domestic shipments by Codfish Corp., December 1982, 1983, and January-November 1984

Period	Quantity	Value
	1,000 pounds	1,000 dollars
December 1982	***	***
1983	***	***
1984: January-November	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

U.S. exports

* * * * * * *

U.S. inventories

Codfish Corp. was unable to provide data on its inventories of dried heavy salted codfish. The firm does not maintain inventory data on dried fish, and takes a physical inventory of wet heavy salted fish only at the end of its fiscal year (September 30). Mr. DaCunha, President of Codfish Corp., stated that the firm maintains very low inventory levels of dried fish as it is only produced in response to orders from customers.

1/ The firm's new distributor, Packers Provision, states that it has a sales office in Miami and will attempt to sell the product in the continental United States through that office. Transcript, p. 61.

Employment and wages

The production and related workers at Codfish Corp. produce dried heavy salted codfish, dried heavy salted pollock, and dried heavy salted hake, and the firm is unable to meaningfully allocate separate labor costs to each item. Codfish Corp. began its dried-fish production in December 1982 with * * * production and related workers. The average number of workers declined to * * * in 1983, and fell further to * * * in January-November 1984 (table 4). According to Mr. DaCunha, the decline in employment was the result of declining sales, which led to declining production. Production and related workers receive * * *. The workers are not represented by a union.

Since November 30, 1984, all production and related workers have been on temporary layoff. Codfish Corp. feels that because of the 40 percent unemployment rate in Ponce, most workers will return to the firm when production resumes. Management at the firm consists of the president, an engineer, a quality control person, and a secretary.

Table 4.--Codfish Corp.: Employment, hours worked, wages paid, and total compensation paid, December 1982, 1983, and January-November 1984

Item	December 1982	1983	January-November 1984
Average number employed in the Codfish Corp.--			
All persons----------number--	***	***	***
Production and related workers producing all dried heavy salted fish----------do----	***	***	***
Hours worked by production and related workers producing all dried heavy salted fish-hours--	***	***	***
Wages paid to production and related workers producing all dried heavy salted fish----------	***	***	***
Total compensation paid to production and related workers producing all dried heavy salted fish----------	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Codfish Corp. participated in the Comprehensive Employment Training Act (CETA) program from December 1982 through October 1983. Under this program the Government reimbursed Codfish Corp. for 50 percent of the salaries paid to production and related workers during their training periods. 1/

Financial experience of Codfish Corp.

Codfish Corp., which accounted for all known U.S. production of dried heavy salted codfish in 1984, furnished income-and-loss data on its total dried heavy salted fish operations, as well as on its dried heavy salted codfish operations only. 2/ All the machinery, equipment, and workers used to process dried heavy salted codfish are common to the processing of all types of dried heavy salted fish produced in the plant, and the company does not keep separate accounting records for its dried heavy salted codfish operations. Thus, all cost and expense data provided by the firm on its dried heavy salted codfish operations are allocated. Manufacturing costs are allocated based on the relationship of pounds produced of dried heavy salted codfish to total production of dried heavy salted fish, and all general, selling, administrative (GSA) and interest expenses are allocated based on the similar relationship to pounds sold. Data on production are not maintained by the firm, and shipment data may not be totally accurate. For accounting purposes, these data are estimated by the firm's accountant from usage of raw material. Hence, data provided on both overall operations and on dried heavy salted codfish operations are limited in their use for analysis and evaluation purposes.

Codfish Corp. began processing dried heavy salted fish in December 1982. Net sales of dried heavy salted codfish accounted for * * * percent and * * * percent, respectively, of total sales of all dried heavy salted fish in its fiscal years ended September 30, 1983, and Sept. 30, 1984. Net sales of all dried heavy salted fish increased by * * * percent from * * * in 1983 to * * * in 1984, whereas net sales of dried heavy salted codfish increased by only * * * percent, from * * * to * * *, during the same period (table 5).

Table 5.--Selected financial data of Codfish Corp. on its operations producing all dried heavy salted fish and dried heavy salted codfish, accounting years ended Sept. 30, 1983, and Sept. 30, 1984

* * * * * * *

Codfish Corp. reported financial data for its first fiscal operating year, ending September 30, 1983, based on audited financial statements, and for the following 12 month period, ending September 30, 1984, based on audited financial statements that were issued as a draft for discussion purposes only. Codfish Corp.'s Certified Public Accountants, Rosaly, Perez, Villarins

1/ Transcript, p. 28.
2/ Codfish Corp. produces no products other than dried heavy salted fish.

and Co., qualified its opinion with respect to two matters: * * *. 1/ The auditor's draft opinion is presented below:

* * * * * * *

Codfish Corp.'s minimum possible breakeven point is estimated by the Commission to be around * * * million pounds of dried heavy salted fish. 2/ This firm has only recently entered the dried heavy salted fish market and has not yet attained this level of sales. Hence, Codfish Corp. has reported gross, operating, and net losses for each reporting period (table 5). The operating and net losses on all dried heavy salted fish operations increased in absolute dollars from 1983 to 1984. However, the operating and net loss margins declined from 1983 to 1984 as sales increased. The operating loss margin on all dried heavy salted fish operations dropped from * * * percent in 1983 to * * * percent in 1984. The company reported that operating losses on its dried heavy salted codfish operations declined from * * *, or * * * percent of net sales, in 1983 to * * *, or * * * percent of net sales, in 1984. The financial data reported in table 5 do not include any of the development and start-up costs of * * * incurred by Codfish Corp. during July 1981 to November 1982. The company capitalized * * * as part of the machinery and equipment, as this amount was incurred for professional engineering advice and assistance during the installation period. Such costs are depreciated annually on the basis of the estimated useful life of the machinery and equipment.

Codfish Corp. shut down its plant in December 1984. The company attributes the shutdown to low market prices of dried heavy salted codfish and accumulated losses, and anticipates resuming production in the summer of 1985, depending upon resolution of its problems with the FDIC and the outcome of this investigation. Codfish Corp. did not provide financial data for the interim periods ending February 28, 1984 and 1985, although these data were requested in the Commission's questionnaire. 3/ Codfish Corp. has not responded to requests for its current financial statements.

Production costs.--Codfish Corp.'s cost of production and sales of all dried heavy salted fish and dried heavy salted codfish are presented in table 6. Raw materials represent Codfish Corp.'s major cost of producing dried heavy salted fish, accounting for * * * percent and * * * percent of total costs of production for this product in 1983 and 1984, respectively. Depreciation of the plant machinery and equipment, including the effect of capitalizing the lease with the Municipality of Ponce, reflects the second most important cost item, accounting for * * * percent of total production costs of all dried heavy salted fish in 1984. If the lease with the Municipality of Ponce for the use of certain equipment, improvements, and

---

1/ * * *.

2/ See the breakeven discussion in the "Question of the Material Retardation of Establishment" section of this report.

3/ Codfish Corp. is unable to compensate its accounting firm and thus has difficulty providing financial data which require substantial amounts of time to prepare.

Table 6.--Codfish Corp.'s cost of production and sales data for all dried heavy salted fish and dried heavy salted codfish, accounting years ended Sept. 30, 1983, and Sept. 30, 1984

* * * * * * *

building facilities is not capitalized and thus depreciated, but instead is treated as a leasing expense when incurred for the purpose of analyzing production costs, leasing expense and depreciation together accounted for * * * percent of total production costs of all dried heavy salted fish in 1984. 1/ The third major cost item is energy, which accounted for * * * percent of the total costs of production of all dried heavy salted fish in 1984. The direct labor and other factory costs (excluding depreciation and energy costs) accounted for * * * percent and * * * percent, respectively, of total production costs of all dried heavy salted fish in 1984.

Operating expenses.--Codfish Corp.'s GSA expenses for its overall dried heavy salted fish operations and its dried heavy salted codfish operations are shown in table 7. Professional fees were the major operating expense item, accounting for * * * percent and * * * percent of net sales and * * * percent and * * * percent of total GSA expenses, for all dried heavy salted fish in 1983 and 1984, respectively. In fiscal year 1983, professional fees totaled * * *. About * * * percent of this amount, or * * *, was paid to * * *. An additional * * * percent was paid to * * *. These funds were paid for * * *. Another * * * percent of the amount, or * * *, was paid to * * *. 2/

Table 7.--Codfish Corp.'s general, selling, and administrative expenses for all dried heavy salted fish and dried heavy salted codfish, accounting years ended Sept. 30, 1983, and Sept. 30, 1984

* * * * * * *

Professional services amounted to * * * in fiscal year 1984. The largest share, * * * percent or * * *, was paid to * * *.

The second largest expense was the bad debts of accounts receivable, which amounted to * * * in 1984, equivalent to * * * percent of net sales and * * * percent of total GSA expenses for all dried heavy salted fish. Of the total bad debts expense, * * * relates to the amount owed by * * *.

1/ As per Financial Accounting Standards Board (FASB) statement number 13 (as amended and interpreted), when a lease has certain characteristics it is required to be capitalized to show the effect of the lease on the financial position of a company. The lease with the municipality meets these requirements.

2/ * * *.

The other significant operating expenses for all dried heavy salted fish in 1984 were legal expenses, 1/ salaries, travel (with hotel and representation expenses), telephone, commission, property taxes and leasing expenses, which in total ranged from * * * to * * * percent of net sales, and between * * * and * * * percent of total GSA expenses.

The Question of Threat of Material Injury

Data concerning exports of dried heavy salted codfish from Canada to the United States and other countries are presented in the "Foreign producers" section of this report. Data regarding imports from Canada are presented in the "U.S. imports" section of this report.

The Question of the Material Retardation of Establishment

Codfish Corp. has alleged that it is suffering material retardation of establishment. The following text provides information that may be of assistance in assessing this allegation. Sections below describe the formation of the firm, its financing, Codfish Corp.'s breakeven point, and its acquisition of raw material.

The formation of Codfish Corp.

The majority shareholders of this firm, the DaCunha family, first began studying the feasibility of operating a fish-drying plant in Puerto Rico in 1980. After outlining the proposed facility in a letter to the Government of Puerto Rico Economic Development Administration (FOMENTO), FOMENTO invited the DaCunhas to a meeting in June 1981. FOMENTO stated that it approved of the project and assigned a caseworker to assist the DaCunhas. Around the same time the firm and FOMENTO began work on a market study. 2/ Codfish Corp. was registered with the Government of Puerto Rico on July 10, 1981.

In September 1981, the city of Ponce contacted the DaCunhas and discussed the possibility of the firm being located in that city, which was suffering from high unemployment. On October 20, 1981, the DaCunhas signed a letter of intent with the city that included provisions for assistance with financing and the renovation and use of a building located within the port of Ponce.

Codfish Corp. then retained Enerfluid, a Portuguese engineering firm, to prepare an engineering plan for the company. 3/ The study was completed in November 1981. In early 1982, the city of Ponce applied for funding from the

---

1/ In fiscal year 1984, Codfish Corp. reported legal expenses of * * *. The firm states that * * *.

2/ This study, completed in the second half of 1982, is presented in app. C of this report.

3/ Pedro Manuel DaCunha, a cousin of Paulo DaCunha, is an engineer with this firm. However, no investor in Codfish Corp. has a financial interest in Enerfluid. Conversation between Michael Esch, attorney for Codfish Corp. and David Coombs, May 29, 1985.

U.S. Department of Housing and Urban Development (HUD) to assist in the project. The funding was approved, and the city of Ponce held three separate competitive biddings for the civil construction, electrical work, and refrigeration and drying equipment for the plant. 1/ With one exception, each contract was awarded to local firms by the city of Ponce. 2/ The firm's facility was completed in November 1982, and a lease was signed on February 28, 1983.

Financing and investing activities of Codfish Corp.

The statements of changes in financial position of Codfish Corp., on a cash basis, are presented in table 8. These statements show where the company obtained funds and how it used these funds during each indicated period.

The financing of Codfish Corp. was achieved from four sources: (1) stockholders, (2) the city of Ponce, (3) bank loans, and (4) usual working capital accounts of a business. The funds contributed by each source are discussed in table 8.

Table 8.--Codfish Corp.'s statements of changes in financial position on a cash basis for accounting years ended Sept. 30, 1982-84

* * * * * * *

Stockholders.--The firm issued 39,200 shares of common stock at $10 par value per share. The holders of these shares, and their paid-in capital, are shown below:

Shareholder	Amount paid	Shares	Share of ownership --Percent--
DaCunha & Sons-------	***	***	51
Monllor & Boscio Sucrs, Inc.--------	***	***	***
Mr. Petrovich--------	***	***	***
Six Portuguese citizens at * * * each---------	***	***	***
Mr. Peres of Canada--	***	***	***
Total----------	$750,000	39,200	100

DaCunha & Sons paid the par value of * * * per share, while all other stockholders purchased shares * * *, averaging * * * per share. The

1/ Codfish Corp. specified the firm which would supply the drying equipment as it considered the plans to be proprietal. Transcript, p. 35.

2/ This was required by federal law since the funding was, in part, from HUD.

* * * invested by Monllor & Boscio was obtained through a loan from Girod Trust for * * *. 1/ This loan was guaranteed by both Codfish Corp. and Paulo DaCunha personally. The terms are * * *.

Some of the capital contributed by the Portuguese investors was in the form of specialized drying racks and carts for use in the plant. According to Paulo DaCunha, this was the only equipment not procured directly by the City of Ponce. The racks and carts are specialized equipment and are unavailable in Puerto Rico.

During 1982-83, Dr. Urbulo DaCunha, the chairman of the board of directors, lent the firm * * *. There were no terms. The capital contributed by the stockholders, and the loan from Dr. DaCunha, accounted for * * * and * * * percent, respectively, of total funds acquired by Codfish Corp. during 1982-84.

City of Ponce.--The city of Ponce paid $775,166.20 towards the purchase of the plant's equipment and spent an additional $761,892.40 on improvements to the facility. Under the terms of the addendum to the lease drafted by the city, the equipment costs were to be recovered over a 15-year period at an interest rate of 8 percent, and the improvement costs were to be recovered over a 20-year period at an interest rate of 8 percent. Payments were to begin on August 1, 1983, and end on January 31, 2003. At the end of the payment period Codfish Corp. was to own the equipment, and the facility was to be owned by the city.

Further, Codfish Corp. leased building facilities (27,000 square feet) from the city of Ponce at a monthly rental of $5,000.00 plus 1 cent per pound of codfish processed and sold in excess of 10 million pounds per year. This rental payment was not to start until February 1, 1987.

The portion of the lease corresponding to the equipment and the improvements to the facility has the necessary characteristics of a capitalizable lease under generally accepted accounting principles. 2/ The monthly payments of this portion of the lease contract are as follows:

	Monthly payments
February 1, 1983, through July 31, 1983	None
August 1, 1983, through January 31, 1985	$10,333
February 1, 1985, through January 31, 1987	13,333
February 1, 1987, through January 31, 2002	13,770
February 1, 2002, through January 31, 2003	4,370

On the basis of the present value of the above-mentioned monthly payments on the date of inception (February 1, 1983), the lease was capitalized in the amount of * * *. Codfish Corp. has never made any payments

1/ Monllor & Boscio was a food distributor located in Ponce. It was owned in part by Mr. Petrovich, who also invested separately in Codfish Corp. and was the Director of the Administrative Board of the Municipal Dock of Ponce. The firm is currently operating under chapter 11 of the Bankruptcy code.

2/ These characteristics are specified in FASB statement number 13.

on the equipment and improvements portion of the lease, and negotiations are under way with the mayor to resolve this situation. Codfish Corp. proposed * * *. On May 16, 1985, the Mayor of Ponce agreed to propose these terms to the City Council for its approval. 1/

The total investment made by the city of Ponce, recorded at $1,395,000, accounted for * * * percent of the total source of funds during 1982-84.

Bank loans.--Codfish Corp. obtained two short-term loans from the Girod Trust Co., in the amounts of * * * and * * *. The terms of these loans were for the interest rate to be * * *, and both loans were to be secured by Codfish Corp.'s trade receivables and inventories. These loans were also guaranteed by the city of Ponce for $1.0 million under the Municipality's Economic Development Loan Fund program as a part of the lease contract.

The firm borrowed * * * from Citibank, N.A., under a credit-line agreement at an interest rate of * * * percent, due in * * * and * * *. This loan was paid-off by the firm. Codfish Corp. has an unsecured overdraft from Girod Trust Co., which was valued at * * * on September 30, 1984.

The firm obtained a first mortgage of * * * on an apartment in Ponce at an interest rate of * * * percent for a * * * year period. It also arranged a loan of long-term * * * against its vehicle at an interest rate of * * * percent. The apartment and the automobile are used by the firm's president.

The three short-term loans, the overdraft, and the two long-term loans accounted for * * *, * * * and * * * percent, respectively, of total funds acquired by the company during 1982-84. Together, these loans accounted for * * * percent of total funds received during the period.

Girod Trust Co. has become insolvent. Hence, at the present Codfish Corp. is negotiating repayment of the * * * due on the two notes with the FDIC. The FDIC believes that * * *. Additionally, FDIC believes that * * *. Accrued interest on the two large notes amounted to * * *, or * * * per day from August 1, 1984, to March 28, 1985. Interest on Petrovich's note amounted to * * *, or * * * per day, from January 1, 1984, to March 28, 1985. * * *. Codfish Corp. has proposed that * * *.

As mentioned earlier, GDB has authorized a $2 million loan to Codfish Corp. 2/ This loan will consist of a $1.5 million revolving line of credit and a $500,000 term loan. 3/ Both loans will be secured by factor's liens on the firm's inventory and accounts receivable, and by a first mortgage on the machinery and equipment owned by the firm. Interest will be payable * * *. Repayment terms are * * * months for the fixed loan and * * * percent of the outstanding balance, but not less than * * * for the line of credit. Codfish Corp. and GDB are currently negotiating some provisions of the loan. Funds will not be issued unless Codfish Corp. wins its antidumping case at the Commission.

1/ Post-hearing brief of petitioner, app. A, p. 2.
2/ Ibid.
3/ Conversation between Paulo DaCunha and David Coombs, May 30, 1985.

Usual working capital accounts of a business.--Working capital consists of liquid resources that are available to a firm and is defined as the excess of current assets over current liabilities. If the working capital increases, it is treated as a source of funds; if the working capital decreases, it is treated as a use of funds. Working capital constantly flows from one area to another. For example, cash is used to pay accounts payable; 1/ the inventory is sold for cash or accounts receivable, and the receivables are collected and turned into cash. In Codfish Corp., working capital accounts, excluding the short-term loans and bank overdraft, accounted for * * * percent of total sources of funds during 1982-84.

Investing activities of Codfish Corp.--The major portion of the funds lost by Codfish Corp. occurred in establishing its business and in its normal operations of drying fish. Codfish Corp. lost * * * (excluding depreciation), which accounted for * * * percent of total sources of funds during 1982-84. The firm invested * * * in its property and equipment over and above the capital lease of * * * invested and financed by the city of Ponce. Codfish Corp.'s property and equipment used * * * percent of the total funds during 1982-84. The firm has paid * * *, equivalent to * * * percent of total funds, as a purchase deposit and * * *, or * * * percent of total funds, for investment in common stocks to * * *. Working capital accounts used * * * percent of the total funds obtained by Codfish Corp. during 1982-84. The cash left in the business amounted to only * * * percent of the total funds as of September 30, 1984.

Financial position of Codfish Corp.

The balance sheets of Codfish Corp. as of September 30, 1982, 1983, and 1984, are presented in table 9. As of September 30, 1984, the firm's total assets of * * * were financed by total liabilities of * * *. Of the * * * in liabilities, * * *, or * * * percent, were current liabilities. At the same time, current assets were only * * *.

A comparison of current assets with current liabilities provides an indication of the short-term debt-paying ability of the company. One such indicator is the ratio of current assets to current liabilities, commonly known as the current ratio. Codfish Corp.'s current ratios were * * *, * * *, and * * * for 1982, 1983, and 1984, respectively. Another primary indication of short-run solvency and debt-paying ability is working capital. The firm had negative working capital of * * * and * * * in 1983 and 1984, respectively. Codfish Corp.'s current ratios and negative working capital (except for 1982) reflect the firm's severe liquidity problem and clearly show the company's inability to meet its debts.

In as much as Codfish Corp. sustained large losses during 1982-84 it was not in a financial position to meet the interest and lease obligations incurred from its operations. The company incurred expenses of * * * in 1983 and * * * in 1984 which it has not paid. These expenses are shown as accrued expenses under current liabilities in table 9.

1/ Accounts payable are current obligations from such items as the purchase of inventory.

Table 9.--Balance sheet of Codfish Corp. as of Sept. 30, 1982-84

* * * * * * *

The current status of Codfish Corp's debts are as follows: 1/ * * *.

The debt/equity ratio is used in financial analysis to determine a firm's long-term debt-paying ability. In this computation, total debt is compared with total stockholders' equity. The debt/equity ratio also helps determine how well creditors are protected, i.e., whether they can recover their interests in case the company becomes insolvent. If Codfish Corp. were to become insolvent, creditors * * *.

The deterioration in the relationship between total debt and stockholders' equity during 1982-84 is graphically portrayed in the following tabulation:

* * * * * * *

In summary, Codfish Corp. was in very poor financial health as of September 1984 and seems to be on the verge of bankruptcy. The company has shut down its operations temporarily since December 1984. The firm will not be able to stay in business without a significant infusion of additional capital and a successful resolution of debt problems with the FDIC and other creditors.

Codfish Corp.'s Certified Public Accountants stated in its notes to the financial statement for fiscal year 1983 and 1984 the following:

* * * * * * *

Breakeven analysis.--The breakeven point of a firm is that level of sales where total revenues and total expenses are equal. This point is important because profits result when sales exceed this level and losses occur when this point is not achieved. The breakeven point is calculated by dividing total fixed costs and expenses by the unit contribution margin. The unit contribution margin is equal to the unit sales price minus the unit variable costs.

1/ Post-hearing brief of petitioner Codfish Corp., app. A, pp. 2-4.

A breakeven analysis must be interpreted in the light of the limitations imposed by its underlying assumptions. The following assumptions were made in the analyses presented in this section: (1) selling prices and sales mix are to remain constant; (2) prices of raw materials and other cost factors are to be unchanged; (3) productivity and efficiency are to remain constant; (4) variable costs change in proportion to changes in volume based on an assumption of linearity; (5) fixed costs remain constant over the relevant volume range; (6) all costs may be divided into fixed and variable elements (there are some costs which may be semi-variable in nature); and (7) the behavior of costs and revenues has been reliably determined and is linear over the relevant range.

It is important to note that the accuracy of any break-even analysis is affected by the raw data upon which it is based. In situations where important data such as sales prices and raw material costs are unavailable, assumptions must be made. The validity of these assumptions will have a major impact on the reliability of the analysis. In the case of Codfish Corp., both sales prices and raw material costs are estimates that have been frequently revised by the firm. When reviewing the following analyses, the reader should pay particular attention to these two items.

Presented below are discussions of four break-even studies of Codfish Corp. The first study was done by the firm and FOMENTO during 1981-82. The second study was done by Citicorp Capital Markets Group in June 1984 and was subsequently revised by Codfish Corp. in April 1985. Another study was prepared by Codfish Corp. in May 1985. The final break-even study was prepared by the Commission staff in May 1985.

Codfish Corp.'s initial market study.--This study, as mentioned earlier, was completed during the second half of 1982. 1/ Detailed data concerning the quality, cure, 2/ and the product mix of the firm's sales are not specified. However, the study does present projected expenses, sales, and profits for Codfish Corp.'s first year of operation. * * *.

* * * * * * *

The break-even sales volume of dried heavy salted codfish, based on the data presented in the study, is * * * million pounds, as computed below:

* * * * * * *

1/ A copy of this study is presented in app. C.
2/ * * *.

Citicorp study.--In June 1984, Citicorp Capital Markets Group completed a study regarding the feasibility of Codfish Corp. using Alaskan wet salted codfish as its raw material. 1/ The study assumed two sets of [illegible] (* * *, or * * *, of ordinary cure and 7/8 cure, respectively), and three sets of production distribution levels (* * * percent, * * * percent and * * * percent, or * * * percent, * * * percent and * * * percent, or * * * percent, * * * percent and * * * percent, of small, medium, and large, respectively). Further, the study shows the pre-tax net income or loss at aggregate sales volumes ranging from * ** to * * * million pounds. Based on the product mix and distribution, the firm's breakeven point ranged from * * * to * * * million pounds. Codfish Corp. has subsequently changed its plans for sourcing material and this study is no longer accurate. However, some of the fixed and variable costs derived by Citicorp are still accurate and used by Codfish Corp. and the Commission in the later studies presented below.

Codfish Corp.'s May 1985 study.--On May 22, 1985, Codfish Corp. furnished a new profitability study done by Dr. DaCunha. 2/ This study supersedes all prior analyses done by or for the firm. 3/ The format used is similar to that presented in the firm's original study, but this new study assumes a product mix of * * * percent ordinary cure and * * * percent semi-dry cure, and provides projected revenues, costs, and profits on each size of dried heavy salted codfish at three different volumes (* * *, * * *, and * * * million pounds) of sales. While this study uses many of the assumptions included in the Citicorp study, the data have been revised to reflect current projections in areas such as the product mix, selling prices of finished product, raw material costs, transportation costs, and fixed costs.

* * * * * * *

The breakeven sales volume of dried heavy salted codfish for the production levels stated in the study ranges from * * * million pounds to * * * million pounds, as computed below:

* * * * * * *

The Commission staff's study.--In May 1985, the staff prepared an independent breakeven analysis for Codfish Corp. using the data obtained in this investigation.

1/ Details of these raw material costs are presented in app. D. Fixed and variable costs are also presented in app. D.

2/ A copy of this study, the firm's third, is presented in app. E.

3/ Letter from Patton, Boggs & Blow, attorneys for Codfish Corp., dated May 22, 1985.

The key data of the staff analysis are summarized in the following tabulation:

* * * * * * *

The selling prices used in this analysis represent CSC's February 18, 1985, c.i.f. San Juan list price with an increase of 20.75 percent, the CSC final dumping margin, on the f.o.b. Canada portion of the prices. These prices are not adjusted for any discount which may be granted by CSC. 1/ The staff believes that these selling prices approximate the highest prices in the Puerto Rican market, and thus represent the maximum selling price that Codfish Corp. can possibly achieve.

The raw material prices shown above are average prices calculated from quotations received from three Alaskan wet salted codfish sources, * * *, * * *, and * * *. As discussed in the following section, Codfish Corp. will source the majority of its raw material from Alaska. Transportation rates used in the analysis are the same as used by Codfish Corp. in its latest study, but the costs represent the weighted-average cost which was calculated by using the volume of each size of wet salted codfish from Maine and/or Alaska and their respective transportation rates. The finished yield and other variable costs, as well as the product distribution and mix, are the same as used by Codfish Corp. in its May 1985 study. The fixed costs are the average of three different amounts at three different levels of production presented in Codfish Corp.'s latest study.

The breakeven sales volume of dried heavy salted codfish, based on the data discussed above, is * * * million pounds, as shown below:

* * * * * * *

The lowest known and verified selling prices for semi-dry cure codfish in Puerto Rico are the selling prices charged for imports from Norway. Recent prices were * * *, * * *, and * * *, per pound, respectively, for small, medium, and large. 2/ If Codfish Corp. has to meet these lower prices, assuming its raw material and other variable costs remain the same as discussed above, the firm will have * * *. Hence, the firm * * *.

The staff believes that actual selling prices of Codfish Corp. will be below the highest and above the lowest selling prices discussed above. However, the actual price has not been negotiated by the firm with Packers' Provision, and an estimate would be difficult to support.

1/ It is known that CSC offers discounts to its customers based on monthly volume. Transcript, p. 137.

2/ For example, see copy of invoice of * * * in Collective Exhibit B in the prehearing brief submitted on behalf of BMT Commodity Corp. and Delca Distributors, Inc.

The c.i.f. cost of net yield raw material, which includes transportation costs, accounts for about * * * to * * * percent of the total variable cost for each size of codfish. Thus, any fluctuation in the price of the raw material has a significant impact on the breakeven point. Likewise, the selling price of each type and size of dried heavy salted codfish is critical. Under the assumptions used above, a one cent reduction in the selling price of each size, with all other variables remaining constant, results in the breakeven sales volume increasing by * * * pounds. Also, if Codfish Corp. is required to * * *, its fixed costs will increase and therefore will also raise the breakeven point.

Product mix also affects the breakeven point. For example, shipment data reported by importers in response to the Commission's questionnaire revealed that the average product mix in 1984 was about 67 percent ordinary cure and 33 percent semi-dry cure, while the average product distribution was approximately 45, 32, and 23 percent of small, medium and large, respectively. 1/ If the firm sells its product at the 1984 market mix and distribution instead of the levels discussed above, the breakeven point will be * * * million pounds of dried heavy salted codfish, as shown below:

* * * * * * *

Acquisition of raw material

Codfish Corp. purchased wet heavy salted codfish from Canada, New England, and Alaska. The firm's first supply of raw material was purchased by * * *, who bought about * * * pounds of wet heavy salted codfish from * * * producers in Canada in late 1982. 2/ Some of the fish was sent directly to Puerto Rico, and the rest was shipped to * * *, where it was loaded onto a ship and then sent to Codfish Corp.

Following this initial purchase, Codfish Corp. bought additional raw material from * * * in Canada as well as from * * * in New England and a producer in Alaska. Codfish Corp. estimates that * * * of the wet salted codfish it purchased in 1983 came from Canada, whereas about * * * percent came from Canada in 1984.

In the future, Codfish Corp. plans to purchase its raw material from Alaska and New England. Negotiations are currently underway between the firm and * * *.

1/ Mr. Garcia of Packers Provision states that he believes that * * *. Conversation between Mr. Garcia and Howard Gooley, May 20, 1985.
2/ These firms were * * *.

* * * of * * * has stated that it is difficult, but possible, to provide Codfish Corp. with material in Ponce that is competitive with the world price. Estimates of prices, f.o.b. Alaska, for choice quality raw material are provided below:

Size	Price per pound (cents)
Small	***
Medium	***
Large	***

* * * states that the price for medium fish may increase if DaCunha does not purchase pollock along with the cod.

Codfish Corp. intends to purchase at least * * * million pounds of raw material from * * * in * * *. This deal will be conducted through a broker, * * *. * * * confirmed the arrangement and said that the approximate price of the material, f.o.b. Boston, would be as follows:

Size	Price per pound (cents)
Small	***
Medium	***
Large	***

* * * produced about * * * pounds of wet heavy salted codfish in 1984, the first year it made the product. * * * stated that the fresh codfish he uses for production of wet heavy salted codfish is caught with gill nets and thus is not of sufficient quality to be sold fresh or for frozen blocks. Thus, the price is significantly below that of fish which may be used for these purposes. * * * said that cod is caught off New England from May through October. 1/

Recent prices for choice wet salted codfish, on an f.o.b. producer basis, are presented below for comparison purposes:

* * * * * * *

The Question of the Causal Relationship Between Alleged Material Injury and LTFV Imports from Canada

U.S. imports

Imports of dried heavy salted codfish are provided for in TSUS item 111.22, which is a "basket" item containing all types of both wet and dried

1/ * * * has characterized the availability of significant quantities of codfish off Maine as "hit or miss". Telephone notes of David Coombs, Apr. 9, 1985.

salted cod, cusk, haddock, hake, and pollock. U.S. imports from Canada under this item declined irregularly from 31.5 million pounds in 1981 to 27.1 million pounds in 1984, or by an annualized rate of 5 percent (table 10). Imports from Canada accounted for 95 percent or more of total U.S. imports under this item during each period. Imports from Canada declined sharply from 7.2 million pounds in January-March 1984 to 4.3 million pounds in January-March 1985, or by 40 percent. During this period, imports from Norway rose from 108,000 pounds to 691,000 pounds, thereby increasing from 1 percent of total imports in January-March 1984 to 14 percent in January-March 1985.

Table 10.--Dried salted codfish, cusk, haddock, hake, and pollock: 1/ U.S. imports for consumption, 1981-84, January-March 1984, and January-March 1985

Source	1981	1982	1983	1984	January-March-- 1984	January-March-- 1985
	Quantity (1,000 pounds)					
Canada	31,548	30,286	25,572	27,058	7,172	4,277
Norway	549	418	609	1,139	108	691
Republic of Korea	3	2	1	64	2	33
All other	49	53	210	83	42	63
Total	32,149	30,759	26,392	28,344	7,324	5,064
	Value (1,000 dollars)					
Canada	35,115	32,917	26,370	27,798	7,336	3,926
Norway	1,046	762	1,419	1,269	153	684
Republic of Korea	7	5	2	77	3	67
All other	96	131	320	122	61	75
Total	36,263	33,814	28,112	29,265	7,554	4,752
	Unit value (per pound)					
Canada	$1.11	$1.09	$1.03	$1.03	$1.02	$0.92
Norway	1.90	1.82	2.33	1.11	1.41	.99
Republic of Korea	2.60	2.13	1.76	1.20	1.46	2.06
All other	1.96	2.46	1.53	1.46	1.46	1.18
Average	1.13	1.10	1.07	1.03	1.03	.94

1/ TSUS item 111.22.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Imports of dried heavy salted codfish, as reported by 10 respondents to the Commission's importer's questionnaire, are presented in table 11. These importers are estimated to have accounted for over 90 percent of all U.S. imports of dried heavy salted codfish from Canada in 1984. Imports decreased from 14.3 million pounds in 1981 to 13.2 million pounds in 1983, or by 7 percent, and then increased to 14.5 million pounds in 1984, an amount 9 percent above the 1983 level.

Table 11.--Dried heavy salted codfish: U.S. imports for consumption from Canada, 1981-84

Item	1981	1982	1983	1984
Quantity----------million pounds--	14.3	13.8	13.2	14.5
Value 1/----------million dollars--	15.9	15.1	14.1	14.9
Unit value 1/----------per pound--	$1.11	$1.09	$1.06	$1.02

1/ Estimated, as several respondents provided annual value data in Canadian dollars.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Market penetration

The analysis of market penetration (i.e., the ratio of imports to apparent consumption) is somewhat different in this investigation since imports accounted for virtually all consumption prior to the sale of dried heavy salted codfish by Codfish Corp. in January 1983. Comparisons of the market share captured from imports by Codfish Corp. in subsequent periods are limited because of the short period of time Codfish Corp. sold its product. However, if apparent consumption is estimated to be the sum of Canadian exports to the United States and Codfish Corp's domestic shipments, Codfish Corp. accounted for about * * * percent of apparent consumption in 1983 and an estimated * * * percent in January-November 1984.

Prices

Prices of dried heavy salted codfish reflect a grading process based on size, quality (choice or standard), and type of cure (ordinary or semi-dry). 1/ Additionally, prices reflect customers' perceptions that are difficult to measure of the quality of the fish. The Commission's questionnaire requested price data for the five largest selling types of dried heavy salted codfish: small choice ordinary (3/4) cure; medium choice ordinary (3/4) cure; polybag codfish, small ordinary (3/4) cure; small choice

1/ See previous sections on "Description and uses" and "Channels of distribution" for discussions on product size and distribution.

semi-dry (7/8) cure; and medium choice semi-dry (7/8) cure. 1/ The data were requested by quarters from January-March 1982 through October-December 1984. All of the products are marketed in 50-pound boxes with the exception of the polybag codfish, which is marketed in 20-pound cartons. Data used in this price section were supplied by the petitioner, the two aforementioned U.S.-based reexporters, * * *, and by five Puerto Rican importers who are wholesalers.

General price trends.--In four of the five categories, the U.S.-produced product decreased in price from the quarter in which it was first reported to the quarter in which it was last reported. 2/ The price of U.S.-produced small choice ordinary cure codfish declined from * * * per case in January-March 1983 to * * * in January-March 1984, a price level maintained through December 1984 (table 12). The U.S. price for medium choice ordinary cure codfish declined from * * * in January-March 1983 to * * * per case in April-June 1984 (table 13). U.S.-produced polybag codfish declined from * * * per 20-lb. case in January-March 1984 to * * * in April-June 1984, and then increased to * * * in October-December 1984 (table 14). U.S.-produced small choice semi-dry cure codfish declined from * * * per case in January-March 1983 to * * * in April-June 1984, climbed to * * * in July-September, and then fell to * * * in October-December (table 17). The domestic price for medium choice semi-dry cure codfish fell from * * * per case in January-March 1983 to * * * per case in October-December 1984 (table 18).

Table 12.--Small choice ordinary cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and by U.S. reexporters of imports from Nova Scotia, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

Table 13.--Medium choice ordinary cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and U.S. reexporters of imports from Nova Scotia, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

1/ The petitioner estimates that these 5 grades account for at least 85 percent of all sales of dried heavy salted codfish in Puerto Rico.

2/ Price controls were in effect on sales of dried salted codfish by retailers in Puerto Rico until Sept. 16, 1983. These controls allowed distributors to markup codfish by only 8.5 percent from their cost, which was freely negotiated with the producer and importers. However, the enforcement of these controls was not vigorous. Transcript of conference in investigation No. 731-TA-199 (Preliminary), p. 76; notes of Howard Gooley.

Table 14.--Polybag (20-lb. box) small ordinary cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and U.S. reexporters of imports from Nova Scotia, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

Table 15.--Small choice ordinary cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and by * * * of imports from Newfoundland, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

Table 16.--Medium choice ordinary cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and by * * * of imports from Newfoundland, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

Table 17.--Small choice semi-dry cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and by * * * of imports from Newfoundland, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

Table 18.--Medium choice semi-dry cure codfish: Weighted-average selling prices to Puerto Rican wholesalers reported by the U.S. producer and by * * * of imports from Newfoundland, Canada, and margins of underselling, January 1982-December 1984

* * * * * * *

As noted, two importers, who are both U.S. reexporters, provided data on their selling prices to importers/wholesalers in Puerto Rico. Both firms procure from * * * in Nova Scotia, as well as from other * * * dried heavy

salted codfish producers. 1/ These plants do not produce the semi-dry (7/8) cure. Consequently, comparisons of trends and levels of import prices to wholesalers in tables 12-14 are for sales of small, medium, and polybag choice ordinary (3/4) cure dried heavy salted codfish.

These price tables contain a weighted-average price, by quarter, for the imported Canadian product from Nova Scotia 2/ in each of the three categories, as well as the ranges of prices for the imported products in each quarter. For small choice ordinary cure codfish, the importers' weighted-average selling price to wholesalers declined steadily beginning in April-June 1982 and continuing throughout 1983 and January-March 1984. The price fell from a period high of * * * (January-March 1982) to * * * per case in January-March 1984, strengthened in the following quarter, and then fell to a low of * * * per case in July-September 1984. In October-December, the price jumped sharply to * * * per case (table 12). The quarterly range of prices to wholesalers was narrow, varying from * * * to * * *. Import prices of medium choice ordinary cure dried salted codfish sold to wholesalers in Puerto Rico exhibit a similar trend, declining by * * * percent in an irregular pattern from a period high of * * * per case in April-June 1982 to a period low of * * * in July-September 1984. Again, the price climbed sharply in October-December 1984 to * * * per case (table 13). Price ranges per quarter varied from * * * to as much as * * *.

Prices of small ordinary cure polybag codfish reflect the same downward trend. The weighted-average import price to wholesalers fell from * * * per 20-pound case in January-March 1982 to * * * per case in April-June 1984, and then increased to * * * in October-December 1984 (table 14).

Margins of underselling.--Canadian dried heavy salted codfish from Nova Scotia sold to wholesalers undersold the domestic product in each of the three ordinary cure dried heavy salted products during most quarters. Margins of underselling of the similar domestic product by Canadian small choice ordinary cure product appeared in seven of eight quarterly price comparisons, and ranged from a low of * * * percent (* * * per case) to a high of * * * percent (* * * per case) (table 12). Canadian medium choice ordinary cure dried heavy salted codfish undersold the competing domestic product in four of six quarterly price comparisons. The margins of underselling ranged from * * * to * * * percent, or from * * * cents to * * * per case. During January-March and April-June 1983, the market entry period for Codfish Corp., that firm's prices were * * * and * * * percent, respectively, below the price of the competing imported Canadian dried heavy salted codfish (table 13). Prices of small ordinary cure polybag codfish enabled comparisons in three quarters of 1984. The Canadian product undersold the domestic in two of the three quarters. Margins of underselling were * * * percent in January-March and * * * percent in April-June, or * * * cents and * * * cents per case, respectively (table 14). In October-December, the domestic dried heavy salted codfish undersold the Canadian product by * * * percent (* * * cents per case).

1/ * * *.

2/ Some of this product came from other * * * producers.

Price trends of imports from Newfoundland.--* * * provided data on selling prices of small and medium ordinary (3/4) cure and semi-dry (7/8) cure product originating from drying plants in Newfoundland and * * * importers/wholesalers in Puerto Rico (tables 15, 16, 17, and 18).

* * * prices for these four Newfoundland dried products reflect trends similar to those of the imported Canadian products from Nova Scotia. The prices of the imported Canadian small choice ordinary cure Newfoundland dried codfish held steady through January-September 1982, declined steadily beginning in October 1982, and continued to fall through March 1984, then held firm during the balance of that year. The price fell from a period high of * * * per case (January-September 1982) to * * * throughout 1984, a decline of almost * * * percent (table 15). Import prices of medium choice ordinary cure from Newfoundland exhibit a similar down trend, falling from * * * per case to * * * per case over the subject period, for an overall decline of * * * percent (table 16).

Prices of small choice semi-dry cure Canadian heavy salted codfish imported from Newfoundland driers reflect a somewhat different down trend. Prices were steady at * * * per case from January through September 1982, then fell * * * per case (* * * percent) in October, slid to * * * per case in April 1983, and held at that level until October 1984, when the price crept up to * * * per case (table 17). The overall decline from peak to trough during the period was * * * percent. Prices of medium choice semi-dry Canadian heavy salted codfish procured from Newfoundland driers reflect the same trend. From a peak of * * * per case that held firm through September 1982, prices fell to * * * in October, and then declined to * * * in April 1983, a level that was maintained through September 1984. Prices jumped to * * * per case during October-December 1984 (table 18). Overall, the price declined * * * percent from peak to trough during the subject period.

Margins of underselling.--Canadian dried heavy salted codfish from Newfoundland sold to Puerto Rican wholesalers undersold the domestic product in the semi-dry (7/8) cure products during most quarters but generally was priced above the price of the domestic products in the ordinary cure categories. 1/ Margins of overselling of the domestic product by the Canadian small choice ordinary cure product appear in each of the eight quarterly price comparisons and ranged from a low of * * * percent (* * * per case) to a high of * * * percent (* * * per case), as shown in table 15. 2/ Canadian medium choice ordinary cure dried heavy salted codfish oversold the competing

---

1/ * * * sells mostly semi-dry cure heavy salted codfish to the U.S. (Puerto Rican) market. Data provided to Commerce show that during February-July 1984, * * * percent of such sales of small choice product was semi-dry cure and * * * percent of sales of medium choice was semi-dry cure.

2/ Prices provided by * * * are not net of volume discounts and rebates offered by * * *. (Transcript pp. 136, 137). Data provided to Commerce indicated discounts of as much as * * * percent on small choice ordinary cure, * * * percent on medium choice ordinary cure, * * * percent on small choice semi-dry, and * * * percent on medium choice semi-dry heavy salted codfish sales to U.S. importers/wholesalers during February-July 1984. Such a net price adjustment significantly reduces margins of overselling by Codfish Corp. and increases margins of underselling by * * *.

domestic product in each of the 6 quarterly price comparisons (table 16). The margins of overselling ranged from * * * percent (* * * per case) to * * * percent (* * * per case).

Quarterly price comparisons for small choice semi-dry (7/8) codfish reveal margins of underselling by the Canadian product in seven of eight quarters. These margins ranged from a low of * * * percent (* * * cents per case) to a high of * * * percent (* * * per case) (table 17). A single margin of overselling by the Canadian product appears in October-December 1984, when the domestic product price was * * * percent (* * * per case) below that of the Canadian product. Six of the eight quarterly comparisons of medium choice semi-dry (7/8) cure dried heavy salted codfish show margins of underselling by the Canadian product (table 18). The beginning and ending quarters of this 2-year period (1983-84) show * * * per case margins of overselling by the Canadian product (table 18). Margins of underselling ranged from a de minimis level of * * * cents per case in July-September 1984 to a high of * * * per case, or * * * percent, in April-June 1983.

Prices to subwholesalers/retailers of choice semi-dry cure dried heavy salted codfish.--Tables 19 and 20 present prices to subwholesalers/retailers reported by the large Puerto Rican wholesalers/importers and, for 1984, prices to retailers reported by the U.S. producer. As noted above, Codfish Corp. states that it sold domestic product to both wholesalers and subwholesalers/retailers at the same price beginning in March 1984. Importers allege that Codfish Corp. sold to retailers in 1983. Mr. DaCunha agrees that Codfish Corp. sold direct to the wholesale division of supermarkets and "cash and carry" chains earlier than March 1984. 1/ It can be inferred, therefore, that the domestic prices shown in tables 19 and 20 were offered not only to subwholesalers but also to at least some subwholesalers/retailers, such as * * *, earlier than March 1984.

Price trends.--Importers' prices of semi-dry dried heavy salted codfish sold to subwholesalers/retailers exhibit a down trend similar to the trend noted for the ordinary cure products. Prices for small choice semi-dry cure codfish declined from a period high of * * * per case in April-June 1982 to a low of * * * per case in January-March 1984 before the trend turned upward to a level of * * * per case in October-December 1984 (table 19). Medium choice semi-dry cure codfish shows a similar trend (table 20). The sharpest price drop for both products occurred in April-June 1983, a period coincident with Codfish Corp.'s presence in the market.

Margins of underselling.--Imported Canadian choice semi-dry cure codfish, was priced above the domestic product in each size product and in each quarterly comparison but one. 2/ Except for the period October-December 1984, the margins of overselling by the small imported cod ranged from * * * to

---

1/ Codfish retained * * * in the * * * with * * *.

2/ To a considerable degree, the overselling reflects a markup (9 percent or more) taken by importers/distributors in sales to subwholesalers (mayoristas), supermarket chains, and the growing number of "cash and carry" outlets that are changing the wholesale pattern of distribution in Puerto Rico. Codfish Corp., in contrast, did not add an additional markup on sales to such accounts.

* * * percent, or * * * to * * * per case (table 19). For the medium size, except for beginning and ending quarters, 1/ the margins of overselling were narrower, ranging from * * * to * * * percent, or * * * to * * * per case (table 20). At the low end of the import price range, the imported small- and medium-size dried heavy salted codfish undersold the domestic product in most quarters between April 1983 and September 1984.

Table 19.--Small choice semi-dry cure codfish: Weighted-average selling prices to subwholesalers and (in 1984) to retailers reported by the U.S. producer and by Puerto Rican wholesalers/importers of Canadian saltcod, and price differentials, January 1982-December 1984

Period	U.S. produced	Imported weighted average price	Lowest import price	Highest import price	Price differentials 1/	
	Dollars per 50-lb. case				Dollars	Percent
1982:						
January-March	2/	61.59	***	***	-	-
April-June	2/	62.87	***	***	-	-
July-September	2/	62.27	***	***	-	-
October-December	2/	60.34	***	***	-	-
1983:						
January-March	***	59.76	***	***	***	***
April-June	***	53.02	***	***	***	***
July-September	***	53.94	***	***	***	***
October-December	***	53.41	***	***	***	***
1984:						
January-March	***	51.90	***	***	***	***
April-June	***	53.69	***	***	***	***
July-September	***	52.56	***	***	***	***
October-December	***	55.40	***	***	***	***

1/ Margins calculated from importers' weighted average price.
2/ No sales reported.
3/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

1/ These were quarters when Codfish Corp. was either entering or exiting the market in terms of strength of market presence.

Table 20.--Medium choice semi-dry cure codfish: Weighted-average selling prices to subwholesalers and (in 1984) to retailers reported by the U.S. producer and by Puerto Rican wholesalers/importers of Canadian dried heavy salted codfish, and price differentials, January 1982-December 1984

Period	U.S. produced	Imported weighted average price	Lowest import price	Highest import price	Price differentials 1/	
	Dollars per 50-lb. case				Dollars	Percent
1982:						
January-March	2/	$71.24	***	***	-	-
April-June	2/	69.30	***	***	-	-
July-September	2/	71.21	***	***	-	-
October-December	2/	69.40	***	***	-	-
1983:						
January-March	***	68.53	***	***	***	***
April-June	***	63.23	***	***	***	***
July-September	***	61.10	***	***	***	***
October-December	***	61.81	***	***	***	***
1984:						
January-March	***	61.48	***	***	***	***
April-June	***	60.87	***	***	***	***
July-September	***	62.40	***	***	***	***
October-December	***	64.41	***	***	***	***

1/ Margins calculated from importers' weighted-average price.
2/ No sales reported.
3/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Prices to subwholesalers/retailers of choice ordinary cure dried heavy salted codfish.--Wholesalers' prices of ordinary cure dried heavy salted codfish sold to retailers are shown in tables 21-23 and are compared with the domestic producer's prices to wholesalers and (in 1984) to subwholesalers/retailers. It can be inferred, as explained above, that Codfish Corp. offered the prices shown to both wholesalers and retailers (supermarkets and "cash and carry" accounts) during the subject period. The same downward price trends, generally coincident with Codfish Corp.'s entry and exit from the market, are apparent for each of the three ordinary cure products, small, medium, and polybag.

Margins of underselling.--Imported Canadian choice ordinary cure dried heavy salted codfish, in comparisons against all three products, was priced above the domestic product in every quarter. Margins of overselling for the small size ordinary cure sold to retailers ranged from * * * to * * * percent, or * * * to * * * per case (table 21). Prices of Canadian medium size ordinary cure were above the quarterly domestic prices by margins of * * * to * * * percent, or * * * to * * * per case (table 22). Prices for polybag

small ordinary cure enabled three quarterly comparisons. Margins of overselling by the imported product ranged from * * * to * * * percent, or * * * to * * * per case (table 23).

Table 21.--Small choice ordinary cure codfish: Weighted-average selling prices to subwholesalers and (in 1984) to retailers reported by the U.S. producer and by Puerto Rican wholesalers/importers of Canadian dried heavy salted codfish, and price differentials, January 1982-December 1984

Period	U.S. produced	Imported weighted average price	Lowest import price	Highest import price	Price differentials 1/	
	Dollars per 50-lb. case				Dollars	Percent
1982:						
January-March	2/	$60.00	***	***	-	-
April-June	2/	59.80	***	***	-	-
July-September	2/	59.22	***	***	-	-
October-December	2/	57.78	***	***	-	-
1983:						
January-March	***	56.65	***	***	***	***
April-June	***	53.30	***	***	***	***
July-September	***	50.12	***	***	***	***
October-December	***	50.69	***	***	***	***
1984:						
January-March	***	48.91	***	***	***	***
April-June	***	54.10	***	***	***	***
July-September	***	49.43	***	***	***	***
October-December	***	46.25	***	***	***	***

1/ Margins calculated from importers' weighted average price.
2/ No sales reported.
3/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 22.--Medium choice ordinary cure codfish: Weighted-average selling prices to subwholesalers and (in 1984) to retailers reported by the U.S. producer and by Puerto Rican wholesalers/importers of Canadian dried heavy salted codfish, and price differentials, January 1982-December 1984

Period	U.S. produced	Imported weighted average price	Lowest import price	Highest import price	Price differentials 1/	
	------Dollars per 50-lb. case------				Dollars	Percent
1982:						
January-March-----	2/	$68.28	***	***	-	-
April-June--------	2/	68.65	***	***	-	-
July-September----	2/	68.27	***	***	-	-
October-December--	2/	67.67	***	***	-	-
1983:						
January-March-----	***	65.58	***	***	***	***
April-June--------	***	61.76	***	***	***	***
July-September----	***	59.25	***	***	***	***
October-December--	***	60.28	***	***	***	***
1984:						
January-March-----	***	60.40	***	***	***	***
April-June--------	***	59.08	***	***	***	***
July-September----	2/	59.95	***	***	-	-
October-December--	2/	59.24	***	***	-	-

1/ Margins calculated from importers' weighted average price.
2/ No sales reported.
3/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 23.--Polybag (20-lb. box) small ordinary cure codfish: Weighted-average selling prices to subwholesalers and (in 1984) to retailers reported by the U.S. producer and by Puerto Rican importers of Canadian saltcod, and price differentials, January 1982-December 1984

Period	U.S. produced	Imported weighted average price	Lowest import price	Highest import price	Price differentials 1/	
	Dollars per case				Dollars	Percent
1982:						
January-March	2/	$25.13	***	***	-	-
April-June	2/	23.21	***	***	-	-
July-September	2/	22.15	***	***	-	-
October-December	2/	21.02	***	***	-	-
1983:						
January-March	2/	20.94	***	***	-	-
April-June	2/	20.01	***	***	-	-
July-September	2/	20.22	***	***	-	-
October-December	2/	19.80	***	***	-	-
1984:						
January-March	***	20.79	***	***	***	***
April-June	***	20.38	***	***	***	***
July-September	***	19.03	***	***	-	-
October-December	***	21.41	***	***	***	***

1/ Margins calculated from importers' weighted-average price.
2/ No sales reported.
3/ * * *.
4/ * * *.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Exchange rates.--Table 24 presents the nominal and real exchange rate indexes for the U.S. dollar per the Canadian dollar. The real exchange rate index that is displayed represents the nominal exchange rate index adjusted for the difference in the relative inflation rates between the United States and Canada.

Table 24.--U.S.-Canadian exchange rates: Indexes of the nominal and real exchange rates between the U.S. dollar and the Canadian dollar, by quarters, January 1982-December 1984

Period	Nominal exchange rate index (US$/CN$)	Real exchange rate index (US$/CN$)
	January-March 1982 = 100	
1982:		
January-March	100.0	100.0
April-June	97.1	98.9
July-September	96.7	98.8
October-December	98.2	100.5
1983:		
January-March	98.5	101.5
April-June	98.2	102.4
July-September	98.1	102.1
October-December	97.6	101.5
1984:		
January-March	96.3	100.7
April-June	93.5	98.3
July-September	92.0	97.5
October-December	91.7	97.6

Source: International Monetary Fund, International Financial Statistics.

As can be seen from the table, the nominal value of the Canadian dollar depreciated against the nominal value of the U.S. dollar by 18.3 percent between January-March 1982 and October-December 1984. The real (inflation-adjusted) index, however, shows that the Canadian dollar actually depreciated slightly against the U.S. dollar, by 2.4 percent during that period.

Transportation costs

Dried heavy salted codfish and wet heavy salted codfish are shipped to Puerto Rico in refrigerated containers to prevent spoilage. Shipping rates to Puerto Rico, as provided by the petitioner, several importers, and brokers, are as follows:

To Puerto Rico from:	Cost (cents per pound)
Alaska (Kodiak)	14-18
Boston	10.5
Eastern Canada	11-14

Codfish Corp. has purchased its raw material, wet salted codfish, from Alaska, Boston, and Canada. The transportation costs for this item, which contains water that will be evaporated, is greater than that for dried salted codfish. For example, wet salted codfish loses between 18 and 20 percent of its weight when converted to ordinary cure dried heavy salted codfish and 25 to 28 percent of its weight when converted to 7/8 cure. Transportation costs for dried salted codfish and wet salted codfish that will be converted to ordinary and 7/8 cures, on a dry-equivalent basis, are presented in the following tabulation:

To Puerto Rico from:	Dried salted codfish	Wet salted codfish (dry equivalent)	
		Ordinary cure 1/	7/8 cure 2/
	Cents per pound		
Alaska (Kodiak)	14-18	17.5-22.5	19.4-25.0
Boston	10.5	13.1	14.6
Eastern Canada	11-14	13.8-17.5	15.3-19.4

1/ Assuming a 20 percent weight loss in conversion.
2/ Assuming a 28 percent weight loss in conversion.

Lost sales

Codfish Corp. provided four allegations of lost sales, which involved a total of * * * pounds of dried heavy salted codfish valued at * * *.

* * *, a wholesale firm located in * * *, Puerto Rico, was cited as allegedly purchasing * * * cases (* * * pounds) of * * * Canadian dried heavy salted codfish at * * * per case in * * * 1984. The competing domestic product was allegedly priced at * * * per case. * * *, buyer for * * *, affirmed the purchase as alleged. * * * noted that he previously had purchased domestic dried heavy salted codfish from Codfish Corp. but that he preferred the Canadian product. Price, however, was an important consideration in his decision to buy the Canadian product.

* * *, a large "cash and carry" wholesaler/retailer located in * * *, Puerto Rico, was named as the alleged purchaser of * * * cases (* * * pounds) of * * * Canadian dried heavy salted codfish in * * * 1984. The imported Canadian product allegedly was priced at * * * per case, compared to a rejected offer price of * * * per case for the competing domestic product. * * *, buyer of meat and fish for * * *, acknowledged the facts as alleged. Although this purchase was for * * * dried heavy salted codfish, the * * * and * * * sizes are the top sellers. This preference, says * * *, is strictly because of price. Price is the major sourcing consideration of * * *, who viewed the competing domestic and imported Canadian products as about the same in quality.

Another alleged lost sale involved * * *, a wholesaler located in * * *, Puerto Rico. * * * was alleged to have brought * * * pounds (* * * cases) of * * * Canadian codfish at * * * per case compared to the rejected domestic price of * * * per case. * * *, the buyer for * * *, checked his invoices and

confirmed the purchase of the Canadian * * * product as alleged. The purchase was made through a broker, * * *. Price was the deciding factor, said * * *.

The fourth alleged lost sale cited * * *, a wholesaler located in * * *, Puerto Rico, as the purchaser of * * * pounds (* * * cases) of * * * Canadian dried heavy salted codfish in * * * 1983. The rejected domestic product was allegedly priced at * * * per case, compared to a price of * * * per case for the imported Canadian product. This firm has not responded to the Commission's telephone calls.

Lost revenues

Codfish Corp. provided * * * allegations of revenues lost in competition with imports from Canada in its response to the Commissions' questionnaire. These allegations involved * * * different firms and a total volume of * * * pounds of dried heavy salted codfish valued at * * *.

The largest sale involving alleged lost revenue named * * *, a large "cash and carry" wholesaler/retailer located in * * *, Puerto Rico. Among "cash and carry" operations, * * *. 1/ This lost revenue allegation involved a sale of * * * pounds (* * * boxes) of * * * codfish to * * * in * * *. Codfish Corp. lowered its price from * * * to * * * per case, for a total reduction of * * * in response to a quote of * * * per case for Canadian codfish. * * *, the bacalao buyer for * * *, stated that he has purchased bacalao from Codfish Corp., and has found the firm's quality to range from very good to not good. * * * stated that he has taken quotes from Codfish Corp. and told the firm that its prices are too high, and that Codfish Corp. has lowered its price in response to this discussion.

The second allegation involved a sale in * * * of * * * boxes (* * * pounds) of * * * codfish to * * *, a "cash and carry" wholesale/retail operation location in * * *, Puerto Rico. In response to a * * * per case quote on Canadian codfish, Codfish Corp. allegedly had to lower its price from * * * per case to * * * per case, for a total reduction of * * *. * * *, executive of the firm, affirmed the facts as alleged. * * * bought sporadically from Codfish Corp. but most of his supply was imports from Newfoundland. According to * * *, Codfish Corp.'s distribution was poor. His purchase pattern with Codfish Corp. was to buy about * * * cases of * * * and * * * cases of * * *, but Codfish Corp. didn't have any salesman calling on him so he brought infrequently. 2/ * * * recalled that his last purchase from Codfish Corp. was probably a year ago, but added that his experience with respect to quality varied. Overall, the domestic product was good for the price. * * * had no problem selling the * * * and * * *, but did have some problems with the * * *, and said it probably was discounted. * * * noted, however, that most of the firm's supply is not choice, but instead is special or commercial grade. According to * * *, "Our clients require edible bacalao at an affordable price." * * * said he would buy again from Codfish Corp. if

1/ * * * has outlets in * * *.

2/ * * * emphasized that Codfish Corp. needs a better customer relations policy, more flexible than "no adjustments (claims) after 48 hours" and also needs a sales force to call on the trade, a sales force that knows and guarantees the product.

the price was competitive and the quality guaranteed as good as Newfoundland dried salted codfish. 1/

Another allegation involved a sale of * * * pounds (* * * boxes) of * * * codfish to * * * in * * *. Codfish Corp. lowered its initial quote from * * * to * * * per case in response to an equal quote on Canadian fish, for a total price reduction of * * *. * * * is a large * * * of Canadian dried heavy salted codfish sourced from * * *. * * * stated that he has purchased codfish from Codfish Corp., and that he has negotiated prices with the firm. However, these negotiations were based on quality differences rather than price differences between the U.S. and Canadian products. * * * stated he negotiated a lower price because the quality of the Codfish Corp. product was less than he expected. * * * recalled that, as a check, he also tried another shipment from Codfish Corp.--* * * cases of * * *, * * * medium, and * * *--and again had quality problems. To avoid trouble, he sold much of it at a loss. Warranty of the product is the important factor for Codfish Corp. says * * *. Codfish Corp must back up the product because it is not enough to honor claims received "only within 48 hours of receiving the merchandise." Even 5-days notice of a claim is not possible for wholesalers, * * * emphasized, because wholesale movement may take several weeks or even months. 2/ According to * * *, the really important thing for Codfish Corp to penetrate the market is not simply to price its product at or a little below the market, but instead to buy good "green cod" in order to assure a quality dried product. * * * stated he would buy from Codfish Corp. again if offered quality product, guaranteed, at a competitive price. 3/

A fourth allegation of lost revenue cited the aforementioned * * * as purchaser of * * * cases (* * * pounds) of * * * codfish in * * * after Codfish Corp. reduced its price from * * * to * * * per case to meet the Canadian offer price. * * *, buyer, affirmed the purchase and the price reduction that amounted to * * * for that order. The Canadian and the domestic * * * product were about the same in quality, so his sourcing decision became a matter of price. * * * would buy the Codfish Corp. product again if offered. He was quite satisfied with the quality. The price, however, must be competitive, or even lower, says * * *, for Codfish Corp. to win an increasing share of * * *'s purchases.

* * * also was identified in an alleged instance of lost revenue. Codfish Corp. sold that firm * * * cases (* * * pounds) of * * * dried heavy salted codfish in * * * after allegedly reducing its offer price from * * * to * * * per case in order to compete with Canadian product offered at that lower price. * * *, the previously mentioned buyer for * * *, confirmed

---

1/ * * * has turned to * * * bacalao in recent months because the Canadian product was priced much higher.

2/ It is noteworthy that a large * * *, recently dropped * * * as a source because of that firm's failure to make an adjustment on a bad quality (* * *) shipment of dried heavy salted codfish * * * although the claim was made by * * * within 48 hours after receipt of the shipment. Several months later, * * * offered to * * * in an effort to save the account.

3/ * * * has bought an increasing amount of * * * dried heavy salted codfish during the period * * * 1985.

the facts as alleged. * * * would again buy the domestic product, if offered. Although satisfied with its quality, * * * believes that it takes a bit lower price from Codfish Corp. for the domestic firm to assure its entry to the market and to increase its market presence. The reason is that the Canadian product is very good and well accepted, * * * noted.

* * *, a "cash and carry" wholesaler/retailer located in * * *, Puerto Rico, was named in another allegation of lost revenue. * * * purchased * * * cases (* * * pounds) of * * * codfish in * * * after Codfish Corp. reduced its offer price from * * * to * * * per case in order to compete with Canadian product at that lower price. * * *, operations manager, acknowledged the purchase of * * * cases as alleged. Earlier, however, he had purchased * * * cases of * * * and had sent it back because of poor quality. * * * wanted a drier product than he received. Quality, not price, says * * *, was Codfish Corp.'s problem at the beginning of their entry into the market. He emphasized that if Codfish Corp. "processes a good fish and offers it at a competitive price," * * * would again buy the Puerto Rican product. His current sourcing pattern from Canada, says * * *, reflects his purchasers' preference.

A final allegation of lost revenue cited * * * as purchasing * * * cases (* * * pounds) of * * * dried heavy salted codfish in * * *, after Codfish Corp. reduced its price from * * * to * * * per case in competing against Canadian product offered at that lower price. * * *, president of * * *, confirmed the facts as alleged. According to * * *, the quality of the Codfish Corp. product was good. Price was the main factor. * * * noted that * * *'s salesmen had problems selling the Codfish Corp. product because competing Canadian bacalao was offered at "incredibly low prices." This prevented * * * from * * *." * * *'s last purchase from Codfish Corp. was * * * cases of * * * at * * * per case in * * *. * * *'s has not purchased any Canadian bacalao in 1985. The prices are too high, says * * *, to assure the quick turnover the product requires. If Codfish Corp. gets back into the market and has the prices, says * * *, * * * would be interested in selling the Puerto Rican product.

APPENDIX A

FEDERAL REGISTER NOTICES

[Investigation No. 731-TA-199 (Final)]

Certain Dried Salted Codfish From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-199 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the

United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of cod, which has been dried and salted, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers, provided for in item 111.22 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). The Commission will make its final injury determination no later than 45 days after Commerce's final LTFV determination (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subpart A and C (19 CFR Part 207), and Part 201, Subpart A through E (19 CFR Part 201).

EFFECTIVE DATE: January 29, 1985.

FOR FURTHER INFORMATION CONTACT: David Coombs (202-523-1376, Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain dried salted codfish from Canada are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on July 19, 1984, by Codfish Corporation, Ponce, Puerto Rico. In response to this petition the Commission conducted a preliminary antidumping investigation, and, on the basis of information developing during the course of that investigation, determined that there was a reasonable indication that the establishment of an industry in the United States was materially retarded by reason of imports of the subject merchandise (49 FR 35870, August 8, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file entry.

Service List

Pursuant to §201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on May 3, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. 20, 1985, at the U.S. International Trade Commission Building, 701 E Street NW, Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 3, 1985. All persons desiring to appear at the hearing and make oral presentation should file prehearing briefs and attend a prehearing conference to be held at 10.00 a.m. on May 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs in May 15, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written material submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August 15, 1984)).

Written Submission

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 27, 1985. In addition, any person has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 27, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submission except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must by submitted separately. The envelope and all pages of such submissions must be clearly labled "Confidential Business Information." Confidential submission and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, August 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission

Issued: February 14, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-4287 Filed 2-20-85, 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-402]

Certain Dried Heavy Salted Codfish From Canada; Postponement of Final Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from counsel for respondents in this investigation that the final determination be postponed, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A); and, that we have determined to postpone our final determination, as to whether sales of certain dried heavy salted codfish from Canada are being made at less than fair value, until not later than May 14, 1985.

EFFECTIVE DATE: March 7, 1985.

FOR FURTHER INFORMATION CONTACT: Karen Sackett or Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 377-3798 or 377-[illegible]56.

SUPPLEMENTARY INFORMATION: On August 8, 1984, the Department of Commerce published a notice in the **Federal Register** (49 FR 32437) that it was initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping investigation to determine whether certain dried heavy codfish from Canada, is being, or is likely to be, sold at less than fair value. On January 29, 1985, we published a preliminary determination of sales at less than fair value with respect to this merchandise (50 FR 3946). The notice stated that if this investigation proceeded normally we would make our final determination by April 8, 1985.

On February 7, 1985, counsel for the six Canadian respondents requested that we extend the period for the final determination for 30 days, 105 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. Section 735(a)(2)(A) of the Act provides that the Department may postpone its final determination concerning sales at less than fair value until not later than 135 days after the date on which it published notice of its preliminary determination, if exporters who account for a significant proportion of exports of the merchandise request an extension after an affirmative preliminary determination.

Counsel for the six respondents is qualified to make such a request since it represents the majority of exporters of the merchandise under investigation. If an exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request.

Accordingly, the Department will issue a final determination in this case not later than May 14, 1985. Because a hearing was not requested by any party to the proceeding, the hearing originally scheduled for February 28 has been cancelled.

This notice is published pursuant to section 735(d) of the Act.

Dated: February 28, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-5495 Filed 3-6-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-402]

Final Determination of Sales at Less Than Fair Value: Certain Dried Heavy Salted Codfish From Canada

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain dried heavy salted codfish from Canada is being, or is likely to be, sold in the United States at less than fair value. We have also determined that codfish is being sold in third countries at less than the cost of production. The U.S. International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or are threatening to materially injure, a United States industry. We have directed the U.S. Customs Service to continue to suspend liquidation on all entries of the subject merchandise as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: May 20, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Karen Sackett, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1756 or 377-3003.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that certain dried heavy salted codfish (codfish) from Canada is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). Granville Gates has been excluded from this determination since we have found their weighted-average margin to be *de minimis*.

The weighted-average margin of all sales compared is 16.22 percent. Margins were found on approximately 60 percent of the sales compared. The margins ranged from 0.03 percent to 79 percent. The weighted-average margin for each company are shown in the "Suspension of Liquidation" section of this notice.

Case History

On July 19, 1984, we received a petition filed by Codfish Corp., on behalf of the U.S. industry producing dried heavy salted codfish. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of codfish from Canada are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on August 8, 1984 (49 FR 32437). On September 4, 1984 (49 FR 35870), the ITC determined that there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports from Canada of certain dried heavy salted codfish.

The petitioner alleged that several Canadian companies produce dried heavy salted codfish for export to the United States. We found that Canadian Saltfish Corporation (CSC), National Sea Products (NSP), R.I. Smith Co., Sable Fish Packers, San Souci, Granville Gates, and United Maritime Fishermen (UMF), accounted for over 60 percent of imports to the United States during the period of investigation.

Since the respondents produced and exported more than 60 percent of the dried salted codfish shipped from Canada to the United States during the period of investigation, we limited our investigation to them.

On October 30, 1984, counsel for the petitioner, Codfish Corporation, further alleged that sales of codfish are being made at prices below the cost of production, and petitioner requested that the due date for the preliminary determination be postponed for 25 days in order to allow sufficient time for the cost of production investigation. On November 30, 1984, we announced the postponement of the preliminary antidumping duty determination for 25 days, or not later than January 22, 1985 (49 FR 47078).

On November 29, 1984, we received a letter from National Sea Products, Ltd. (NSP) stating that it purchased its codfish drying plant on April 28, 1984, and that all cost data was removed by the previous owner. United Maritime Fishermen (UMF) informed us by letter December 31, 1984, that, because it was a cooperative and therefore did not engage in production, it could not supply cost of production information. We received inadequate cost responses from all other exporters included in this investigation except CSC, whose cost data was then used as "best information available" in our preliminary determination. The deficiencies in the cost responses of all respondents except UMF were corrected prior to verification.

We published a preliminary determination of sales at less than fair value on January 29, 1985 (49 FR 47078). Although our notice of the preliminary determination provided interested parties with an opportunity to request a public hearing, no hearing was requested. On February 7, 1985, counsel representing respondents requested a 30 day postponement of the date for the Department's final determination. On March 7, 1985 we announced the postponement of the final antidumping

duty determination for 30 days or not later than May 14, 1985. (50 FR 9306).

Scope of Investigation

The products covered by this investigation are currently provided for in item 111.22 of the *Tariff Schedules of the United States, Annotated* (TSUSA). The term "certain dried heavy salted codfish" covers dried heavy salted codfish, which may be whole, or processed by removal of heads, fins, viscera, scales, vertebral columns, or any combination thereof but not otherwise processed, not in airtight containers.

We investigated sales of certain dried heavy salted codfish by these respondents during the period from February 1, 1984 to July 31, 1984.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

Comparisons were made on the basis of size, quality, and drieth groupings which conform to industry-wide standards.

United States Price

As provided in section 772 of the Act, we used the purchase price of certain dried heavy salted codfish to represent the United States price for sales by the Canadian producers because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price on the f.o.b., c.&f., or c.i.f. price to unrelated purchasers for sale in the United States. We made deductions, where appropriate, for inland freight, ocean freight, marine insurance, quantity discounts, discounts for early or cash payments, and brokerage and handling.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on sales to third country markets or constructed value. There is no viable market for dried heavy salted codfish in the home market. The petitioner alleged that sales to third countries were at prices below the cost of producing certain dried heavy salted codfish. We examined production costs which included all appropriate costs for materials, labor and general expenses. Cost data was submitted by all companies included in the investigation except UMF. For UMF we used the best information available, as required by section 776(b) of the Act. The best information available is the highest weighted-average margin for an individual respondent.

We found virtually all sales were at prices below the cost of production for Canadian Saltfish Corporation. Accordingly, we disregarded third country prices and used constructed value in accordance with section 773 of the Act in making our comparisons.

Constructed value was calculated by adding the cost of materials, fabrication, general expenses, profit, and U.S. packing. The amount added for general expenses was the statutory minimum of 10 percent of the sum of material and fabrication costs, since the actual general expenses were less than the statutory minimum. The amount added for profit was the statutory minimum of 8 percent of the sum of materials, fabrication costs, and general expenses, since the actual profit was below the statutory minimum.

For all other companies we used sales to third country markets as the basis for foreign market value. We calculated third country prices on the basis of c.i.f. or c.&f. prices with deductions where appropriate for inland freight, ocean freight, and marine insurance. We made adjustments for differences in credit expenses between the two markets. Adjustments were also made for difference in commission in one market and indirect selling expenses in the other market in accordance with § 353.15 of our regulations (19 CFR 353.15). We made adjustments where appropriate, for differences in merchandise in accordance with § 353.16 of our regulations (19 CFR 356.16).

Verification

In accordance with section 776 (a) of the Act, we verified data used in making this determination by using standard verification procedures which included on-site inspection of producers facilities and examination of company records and selected original source documentation containing relevant information.

Petitioner's Comments

Comment 1: Petitioner argues that if the Department could not verify the actual rate of interest paid by CSC on loans from the government, the Department should use the Canadian prime rate as "best information available".

DOC Response: We used actual verified interest rates paid by CSC in the calculation of credit costs.

Comment 2: Both NSP and Sans Souci produce dried salted codfish and purchase it from unrelated third parties. Petitioner argues that in calculating cost of production and constructed value the Department should use the actual costs of NSP and Sans Souci and not the price paid for finished product to third parties.

DOC Response: For determining the cost of production the Department used the weighted-average costs of the purchased and processed products, since this represented the actual cost incurred by the sellers.

Comment 3: Petitioner argues that if the higher yields from drying claimed by a number of the respondents which conflict with the industry standard cannot be verified, the industry standard should be used to determine cost.

DOC Response: The Department used the producers' actual experience when such yields could be verified. For those producers which did not provide actual experience for the whole process, or any part of the process, we used industry standard yields from a study published by the Canadian Fisheries.

Comment 4: Petitioner questions whether imputed labor and management costs attributable to services provided by owners and family members should be added to constructed value.

DOC Response: During verification the Department obtained the actual salaries and benefits paid to family members. Since actual salaries were paid in all cases, there was no reason for the Department to adjust expenses.

Comment 5: Petitioner argues that the adjustments for old inventory clearance sales, non-commercial sales and small quantity sales should be made under the "differences in circumstances of sale" provision (19 CFR 353.15).

DOC Response: See DOC Response to Respondents' Comment 1, 2 and 3.

Comment 6: Petitioner argues that two of the respondents third country sales constitute less than 5 percent of the volume of U.S. sales; therefore, they are inadequate as a basis for comparison.

DOC Response: In one instance, the Department used third country sales where the sales volume was below 5 percent of the volume of U.S. sales. The other respondents' third country sales exceed 5 percent of U.S. sales volume. As neither the statute nor the regulations state a minimum quantity of third country sales required in order to determine foreign market value, we feel this comparison is appropriate.

Comment 7: Petitioner argues that the scope of investigation should be modified to include certain dried heavy salted codfish in polybags which enters under TSUSA number 112.36, for codfish packed in airtight containers.

DOC Response: The notice of initiation in this investigation limited the

scope of the investigation to codfish is not in airtight containers.

We can clarify but not change the scope of the investigation. Since we cannot determine whether individual shipments in polybags are in airtight containers, we will instruct the U.S. Customs Service to make that determination. If the polybags are airtight containers, the shipment will not be within the scope of this determination. Imports that are not in airtight containers are within the scope.

Respondent's Comments

Comment 1: Respondents state that old inventory clearance sales at the end of the prime selling season should be excluded from our fair value comparison because they were not in the "ordinary course of trade".

DOC Response: Since CSC has demonstrated that the price for one sale of large fish of marginal quality was reduced to avoid loss of product, we have determined that this one sale of old inventory, marginal quality, large fish was not in the ordinary course of trade, and we accordingly did not consider that sale in our comparisons.

We have no documentation showing that additional sales of large fish were for marginal quality merchandise, and we have not excluded them from our fair value comparisons.

Comment 2: Respondents state a non-commercial sale to the Canadian International Development Agency for food aid should be excluded from our fair value comparison because it was not in the "ordinary course of trade."

DOC Response: Since this sale was made at less than the cost of production, the issue is moot.

Comment 3: Respondents state that sales of unusually small quantities to a nontraditional market should be excluded from our fair value comparison because they were not in the "ordinary course of trade."

DOC Response: While the small sales may have been to a "non-traditional" point of delivery, we do not exclude sales based on destination or point of delivery within the relevant market.

Comment 4: Respondents state that any cost of production and constructed value calculation for cullage (commercial, utility or bonacara) fish should be based on the actual cost of producing cullage fish rather than standard or choice fish.

DOC Response: The Department used the actual costs of cullage.

Comment 5: Respondents argue that, in calculating constructed value, the Department should use the same figures businessmen actually used in setting their prices. They argue that if the Department uses actual cost, we may be using figures different from those used by the businessmen, and may be imposing duties even though the sellers were unaware that the sales were made at prices below the cost of production.

DOC Response: The Department uses the actual cost of the producer obtained from the producer's records, adjusted for statutory requirements if necessary, to calculate the constructed value. The basis relied upon by a company to establish its prices may vary from company to company and, in fact, prices may not be based on costs at all. Accordingly the basis is used by the producer to set its prices is not the determining factor for deciding if sales are below the cost of producing the merchandise or for developing "constructed value."

Comment 6: Respondents state that profit made by CSC is passed through to the producers whose product it sells. Therefore, we should not apply the statutory 8 percent minimum profit. They further argue that this profit is passed through to producers in the form of higher prices.

DOC Response: Based on the record, respondent's position is not supportable. For the period of investigation, CSC did not reflect a profit. Additionally, CSC did not provide information showing that any of CSC's profit was passed back to suppliers for the period of investigation, or that such a payment had a direct, quantifiable impact on prices paid to the suppliers. Moreover, the disposition by a producer of its profits is not a basis for deciding if the statutory minimum profit of 8 percent should be included in the constructed value.

Comment 7: The respondents state that the Department should use the transfer price at which NSP transfers saltbulk cod to its subsidiary Canso Sea Products (CSP), not NSP actual costs of producting saltbulk, for determining the cost of production of NSP. Respondents state we should use this method because NSP's books did not adequately reflect the cost of producing saltbulk and because the transfer price is the same price paid for comparable quality saltbulk sold by NSP to unrelated purchasers.

DOC Response: The Department used the actual costs incurred by NSP for producing saltbulk. During verification the Department reviewed NSP's accounting system and adjusted for deficiencies in this system. The charge at which the saltbulk, an intermediate product, was transferred to CSP or the price paid to NSP for saltbulk by unrelated third parties is not relevant to the cost of production of dried salted codfish.

Continuation of Suspension of Liquidation: We are directing the United States Customs Service to continue to suspend liquidation of all entries of codfish from Canada, which are entered, or withdrawn from warehouse, for consumption, on or after January 29, 1985, the date on which the Department published its preliminary determination in the **Federal Register** (49 FR 47078). The U.S. Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average margin amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash amounts established in our preliminary determination of January 29, 1985, remain in effect with respect to entries or withdrawals made prior to the date of publication of this notice in the **Federal Register**. With respect to entries or withdrawals made on or after the publication of this notice, the bond or cash deposit amounts required are shown below. Granville Gates has been excluded from this determination since we have found their weighted average margin to be *de minimis*.

Producer/exporter	Weighted-average-margin percentage
Canadian Saltfish Corporation	20.75
Granville Gates[1]	[2] 0.02
National Sea Products	1.27
R.J. Smith Co	1.49
Sable Fish Packers, Ltd	10.95
Sans Souci	3.40
United Maritime Fishermen	20.75
All other manufacturers/producers/ and exporters	16.30

[1] Company excluded from this determination.
[2] *De minimis* excluded.

This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening to materially injure, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on certain dried heavy salted codfish from Canada entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Alan F. Holmer,

Acting Assistant Secretary for Trade Administration.

[FR Doc 85-12129 Filed 5-17-85; 8:45 am]

BILLING CODE 3510-DS-M

APPENDIX B

WITNESSES APPEARING AT THE HEARING

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Certain Dried Salted Codfish from Canada

Inv. No. : 731-TA-199 (Final)

Date and time: May 20, 1985 - 10:00 a.m.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

In support of the imposition of antidumping duties:

Patton, Boggs & Blow--Counsel
Washington, D.C.
on behalf of

Codfish Corporation

Paulo da Cunha, President

Guillermo Garcia, Jr., President, Packers Provision Company, Puerto Rico

Bart S. Fisher)
Michael D. Esch) --OF COUNSEL

- more -

In opposition to the imposition of antidumping duties:

O'Melveny & Myers--Counsel
Washington, D.C.
on behalf of

Canadian Saltfish Corporation, National Sea Products, Ltd., R.I. Smith Company, Sable Fish Packers, Ltd., Sans Souci Seafoods, Ltd., and United Maritime Fishermen

William Moyse, Comptroller, Canadaian Saltfish Corporation

Basil Blades, President, Sable Fish Packers, Ltd.

Jose Arturo Alvarez, Vice President, Mendez & Co., Inc.

Carl Wheeler, Marketing Manager, Canadian Saltfish Corp.

Gary N. Horlick)
Judith Hippler Bello)
Joshua B. Bolten)--OF COUNSEL
James J.R. Talbot)

Freeman, Wasserman & Schneider--Counsel
New York, N.Y.
on behalf of

BMT Commodity Corporation and Delca Distributors, Inc.

Robert Ganz, President

Carl Crego, Economic Analyst

Jack G. Wasserman)
Patrick C. Reed)--OF COUNSEL

APPENDIX C

CODFISH CORP.'S INITIAL MARKET STUDY

* * * * * * *

APPENDIX D

CITICORP COST ANALYSIS

* * * * * * *

APPENDIX E

CODFISH CORP.'S MAY 1985 STUDY

* * * * * * *